

MEETING
STATE OF CALIFORNIA
HORSE RACING BOARD

In the Matter of:)
)
Regular Meeting)
)

ARCADIA CITY HALL
240 WEST HUNTINGTON DRIVE
ARCADIA, CALIFORNIA

WEDNESDAY, JANUARY 16, 2008
10:00 A.M.

Reported by:
Troy A. Ray

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

COMMISSIONERS

Richard B. Shapiro, Chairperson

John C. Harris, Vice-Chairperson

John Amerman

John Andreini

Jesse H. Choper

Marie Moretti

Jerry Moss

STAFF

Derry L. Knight, Deputy Attorney General

Jacqueline Wagner, Staff Services Manager I

Richard Bon Smith, Assistant Executive Director

Mike Marten

Francisco Gonzalez

ALSO PRESENT

Dr. Rick Arthur, Equine Medical Director

Bernie Thurman

Mike Ziegler

Jack Liebau

Jerry Jamgotchian

Jake Feinberg

Ivan Axelrod

Jim Perez

APPEARANCES CONTINUED

ALSO PRESENT

Dave Elliott

Marsha Naify

Drew Couto

Guy Lamothe

Ron Charles

Darrell Haire

Cliff Goodrich

Frank Castro

Ed Halpern

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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

1 PROCEEDINGS

2 ASSISTANT EXECUTIVE DIRECTOR SMITH: Ladies and
3 gentlemen, will the meeting come to order, please.

4 This is the regular meeting of the California
5 Horse Racing Board on Wednesday, January 16th, 2008, at the
6 Arcadia City Hall, 240 West Huntington Drive, Arcadia,
7 California.

8 Present at today's meeting are Chairman Richard
9 Shapiro, Vice Chairman John Harris, Commissioner John
10 Amerman, Commissioner John Andreini, Commissioner Jesse
11 Choper, Commissioner Marie Moretti, and Commissioner Jerry
12 Moss.

13 Before we go on to the business of the meeting,
14 I'd like to remind everyone to please state your name and
15 organization clearly. Our court reporter, Mr. Troy Ray,
16 would appreciate that.

17 And now, Mr. Chairman.

18 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Bon.
19 And good morning to everybody and happy New Year to
20 everybody, as well.

21 And now the part that I know everybody looks
22 forward to is my reading this, so I'll start reading.

23 The Board invites comments from the public about
24 items on its agenda. It also invites public comment about
25 items not on the agenda, that are related to horse racing,

1 during the public comment period.

2 Please note that unduly repetitious comments or
3 extended discussion of irrelevancies disrupt the meeting and
4 prevent the Board from accomplishing its business in a
5 reasonably efficient manner.

6 In order to assure that each individual, who
7 wishes to comment, will have an adequate opportunity to do
8 so, and also to assure that the meeting as a whole will be
9 completed in a timely manner, so that individuals wishing to
10 comment on multiple matters will not be required to stay for
11 an unreasonable length of time, I will strictly enforce a
12 three-minute time limit for each person wishing to speak on
13 any agenda item.

14 The shorter, three-minute time period is necessary
15 because of today's lengthy agenda. The goal of this rule is
16 to assure that each person's right to make their views known
17 is not disrupted by another person's conduct.

18 In order to expedite the comment process, there's
19 a public comment -- there are public comment cards, which
20 are found at the podium and also in the back.

21 One day we're going to get this right, where I'm
22 going to know in advance, okay. But in any event, in the
23 back. The cards are located, as I said, in the back and at
24 the podium. Please print your name legibly so that I don't
25 mess it up.

1 Just prior to our discussion of the item, the
2 comment cards will be brought to me. After initial
3 statements from staff and the interested parties, I will ask
4 for public comment. When I call your name, please come to
5 the podium to speak. I will let you know when your time has
6 commenced, when you have one minute left, and when your time
7 is up.

8 There also is a light indicator, that is at the
9 podium, that will also advise you.

10 When all the names have been called I will ask if
11 anyone else has a comment on the agenda item, who has not
12 already spoken. At that point the Board will not take any
13 further comment on an item unless the Board has specific
14 questions it wishes addressed.

15 If the time is up, I will ask the speaker to
16 please take his or her seat. If a speaker is repeating
17 himself or herself, I will ask the speaker if he or she has
18 any new comments to make. If not, I will ask the speaker to
19 allow the next speaker to come to the podium, irrespective
20 of the time remaining, unless a Board member indicates that
21 he or she still wishes to hear from the individual.

22 If it appears that a speaker is not speaking to
23 the agenda item, or is speaking to another agenda item, I
24 will ask the speaker please return to his or her seat, and
25 address his or her comments at the appropriate time, either

1 on the specific item or at public comment.

2 Okay, let me just go over a few housekeeping
3 things, which would be that there are a few changes to the
4 agenda. Item Number 8, which was a discussion and action by
5 the Board regarding mandating the use of safety reins at
6 California racetracks. I have been advised by the Jockeys'
7 Guild that they have requested that we defer this item and,
8 therefore, that item will be deferred until a subsequent
9 meeting.

10 Also, Item Number 10, which is a report and update
11 from representatives of Pacific Coast Quarter Horse Racing
12 Association and the University of California, at Davis,
13 regarding the status of quarter horse and toe grab study.
14 They, too, have a -- PCQHRA have requested that they defer
15 that. And so we will defer that.

16 However, I did have an occasion to speak with Sue
17 Stover, at UC Davis, yesterday, and she told me that they
18 have not even commenced such a study. So while I'm willing
19 to defer that item, I do expect to hear what the status of
20 that study is so that we can understand if they are in fact
21 doing a study, and if they're not, whether the Board should
22 consider that issue.

23 But we'll defer that at this meeting, unless
24 anybody has any other objection.

25 Okay, that being the case, we'll move forward with

1 the agenda, and Item Number 1 is approval of the minutes of
2 the regular meeting of November 29th, 2007.

3 Does anybody have any corrections, additions, or
4 changes?

5 COMMISSIONER HARRIS: I have one correction. On
6 page 12 we were talking about the use of anabolic steroids
7 and the last three lines there says, "Vice Chairman Harris
8 stated the industry should be informed regarding the
9 proposed regulations so trainers could change regiments two
10 or three weeks out."

11 I think, I can't remember what I said, but it
12 should be two or three months out. And it is the Board
13 issue because of these new testing procedures, it's probably
14 advisable don't start a new horse on anabolic steroids,
15 period. But two or three weeks clearly wouldn't be enough
16 time to allow --

17 COMMISSION CHAIRPERSON SHAPIRO: All right, then
18 we will amend the minutes to reflect that, if there's no
19 objection.

20 Are there any other changes to these minutes? If
21 not, I'll entertain a motion to approve.

22 COMMISSIONER MORETTI: So moved.

23 COMMISSIONER AMERMAN: Second.

24 COMMISSION CHAIRPERSON SHAPIRO: And seconded.
25 All in favor?

1 (Ayes.)

2 COMMISSION CHAIRPERSON SHAPIRO: They are
3 approved.

4 Item Number 2, approval of the minutes of the
5 regular meeting of December 14th, 2007. Are there any
6 changes, additions, corrections?

7 If not, I'll entertain a motion to approve.

8 COMMISSIONER CHOPER: So moved.

9 COMMISSIONER MOSS: Second.

10 COMMISSION CHAIRPERSON SHAPIRO: It's moved and
11 seconded. All in favor?

12 (Ayes.)

13 COMMISSION CHAIRPERSON SHAPIRO: Those are
14 approved.

15 See how fast this meeting's going?

16 Okay, Item Number 3, the discussion and action by
17 the Board on the application to conduct a horse racing
18 meeting of the Bay Meadows Racing Association at Bay
19 Meadows, commencing February 4th, 2008 through May 11th,
20 2008, inclusive.

21 Good morning, Jackie.

22 STAFF SERVICES MANAGER WAGNER: Good morning,
23 Commissioners.

24 The Bay Meadows Racing Association has filed its
25 application to run its race meeting from February the 4th

1 through May the 11th, or 70 days. They will be racing 593
2 races, or 8.47 races per day.

3 These proposed race dates represents a Thursday
4 through Monday race week, which will coincide with the Santa
5 Anita race schedule. They are proposing to race Wednesday
6 through Sunday, if and should Hollywood Park is conducting
7 live racing.

8 They will be racing five days per week, with eight
9 races on weekdays and nine or ten races on holidays and days
10 of special interest.

11 Their first post time is proposed for 12:45 p.m.
12 daily post. With a 7:20 p.m. post on Fridays, April the
13 4th, the 11th, the 18th, the 25th, and May, the 9th.

14 Their ADW wagering providers are TVG, YouBet,
15 XpressBet, and Twinspires.

16 The analysis in your packets indicates that the
17 Horsemen's agreement is outstanding. And I am pleased to
18 report that the Horsemen's agreement has been signed and
19 been forwarded to headquarters.

20 Representatives from the racing association are
21 here, should you have any additional questions. Staff would
22 recommend that you hear from them.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, perhaps
24 those representatives, I saw Mr. Liebau, Ms. Thurman, and
25 Mr. Ziegler were in the audience.

1 I know the weather's working, a friend of mine
2 just sent me an e-mail. So hello, that's great.

3 MR. LIEBAU: That's great.

4 COMMISSION CHAIRPERSON SHAPIRO: Actually, one of
5 the things, that's exactly what they said. Are you -- never
6 mind.

7 Good morning.

8 MS. THURMAN: Good morning.

9 COMMISSION CHAIRPERSON SHAPIRO: A couple
10 questions, if you would. I appreciate that what you're
11 doing is that you're matching your Northern California
12 schedule to the Southern California racing.

13 Would you not prefer that the application provided
14 the flexibility, if you decide that you also want to then go
15 to a Thursday through Monday? I mean, the way it's written
16 says you're going to go Thursday through Monday during Santa
17 Anita, and Wednesday through Sunday at Hollywood Park.

18 But if you decided Hollywood Park to continue what
19 Santa Anita's doing, I assume you want that flexibility?

20 MS. THURMAN: Sure. Bernie Thurman, with Bay
21 Meadows. And we'd like the flexibility to run whenever
22 Southern California's running.

23 COMMISSION CHAIRPERSON SHAPIRO: All right. So
24 what I suggest is that we amend this license to provide that
25 whatever the dates in Southern California they can match, so

1 that you're not stuck.

2 MS. THURMAN: That would be great.

3 COMMISSION CHAIRPERSON SHAPIRO: Mr. Ziegler, I
4 see that you say here that you're going to run ten races on
5 four special promotional days. What are those days?

6 MR. ZIEGLER: Mike Ziegler, I'm going to defer to
7 Mrs. Thurman here.

8 MS. THURMAN: We're going to do El Camino Derby
9 Real -- El Camino Real Derby, Bay Meadows Handicap Day,
10 probably Kentucky Derby, and Closing Saturday, if we have
11 sufficient field size.

12 COMMISSIONER HARRIS: I think you might use some
13 special promotion for your final/final day, give everybody
14 some dirt or something.

15 MR. ZIEGLER: The whole gist of the meet is we're
16 operating this meet under the assumption that Bay Meadows
17 isn't going anywhere. If at that point in time we've been
18 told that Bay Meadows is closing for sure, we'll have a
19 little bit of entertainment to close the meet out. But
20 until we know for certain, we're not going to react.

21 COMMISSIONER AMERMAN: I may be the only one in
22 the room, but my assumption was this was the last meet at
23 Bay Meadows. Has something changed?

24 MR. ZIEGLER: No, sir, Mr. Amerman. I've been
25 involved with Bay Meadows since 1995 and, frankly, until the

1 bulldozers are there, I don't actually want to believe that
2 it's going away.

3 COMMISSIONER AMERMAN: Well, I understand that.
4 I'm just trying to say is there really anything that's come
5 up that is new, that makes your phraseology a little
6 different from what I've heard in the past?

7 MR. ZIEGLER: Nothing new has come up, no, sir.

8 COMMISSIONER AMERMAN: Okay, thank you.
9 Assuming -- well, let's assume that maybe this might be the
10 last meeting, I was interested in your marketing plan, where
11 you seem to say, well, let's get people into the track, this
12 is the last time and so forth. Have you ever heard of the
13 best four-letter word in the English language?

14 MR. ZIEGLER: I'm going to go out on a limb here
15 and say it's "free." Am I correct?

16 COMMISSIONER AMERMAN: What's that?

17 MR. ZIEGLER: Is it "free," is that the four-
18 letter word?

19 COMMISSIONER AMERMAN: Yes, absolutely. Why don't
20 we just try a meet, for the good of the industry, really,
21 try a meet where we have free attendance, you can walk in.
22 It would seem to me that it might help your attendance and
23 it might help your handle, and we might learn from it.

24 COMMISSIONER CHOPER: Free.

25 MR. ZIEGLER: You know, one thing that we are

1 doing --

2 COMMISSIONER AMERMAN: Just an idea, by the way.

3 MR. ZIEGLER: I understand. And I'll tell you an
4 idea that we are doing for this meeting, which we feel is
5 probably better than free general admission every day, it's
6 Sunday --

7 COMMISSION CHAIRPERSON SHAPIRO: Free wagering?

8 (Laughter.)

9 MR. ZIEGLER: Actually, free food and free Turf
10 Club to -- every Sunday we're sending a thousand passes
11 for --

12 COMMISSIONER AMERMAN: I love the idea.

13 MR. ZIEGLER: -- to our best customers to come out
14 to the Turf Club. Many of these people have probably never
15 had an opportunity to try the Turf Club and Jack's buying
16 them lunch.

17 So if you guys are on the mailing list, come on
18 out.

19 MR. LIEBAU: Jack Liebau, from Bay Meadows. Mr.
20 Amerman, I think that if you look over a period of time,
21 free admission has worked for specific days, and Bay Meadows
22 has done that on numerous occasions over the years. But
23 when it's free every day, I do not think that it becomes a
24 special thing that attracts people.

25 And I would say that, you know, we do monitor

1 what's going on and are looking with interest at Santa
2 Anita, as far as what is happening or has happened on their
3 first day, and future Mondays, and we will continue to
4 monitor that. And if, by chance, it turns out to be good,
5 we would expand that.

6 Just as Hollywood Park is monitoring the Thursday
7 through Monday situation, and we'll react accordingly.

8 COMMISSIONER AMERMAN: Thank you very much.

9 COMMISSION CHAIRPERSON SHAPIRO: One thing that we
10 didn't say, it's my understanding from your application that
11 your ADW providers will be all of those that -- I'm sorry --
12 all of those that are licensed in the State of California;
13 correct?

14 MS. THURMAN: That's correct.

15 COMMISSION CHAIRPERSON SHAPIRO: Who will be
16 providing the television?

17 MS. THURMAN: TVG.

18 COMMISSION CHAIRPERSON SHAPIRO: So TVG. And one
19 of the things we probably have to do, now, is at least ask
20 that question of our associations, because it's not
21 exclusive wagering, but it's exclusive broadcasting.

22 MS. THURMAN: Right.

23 COMMISSION CHAIRPERSON SHAPIRO: And so I think we
24 should know that.

25 All of those agreements are in order, there's

1 nothing on the horizon that could cause a problem?

2 MS. THURMAN: I don't know anything that could
3 cause a problem at this point.

4 COMMISSIONER HARRIS: Because, previously, I
5 thought you were both HRTV and TVG, they were sort of --

6 MS. THURMAN: There was a new agreement, in
7 November, that sort of facilitated the sharing of content,
8 or wagering, I should say, opportunities.

9 COMMISSIONER HARRIS: So does that give you a
10 priority that will show your races in front of others?

11 MS. THURMAN: That's right. And, of course,
12 streaming will be available on the other platforms.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay. There was
14 one other thing that I wanted to ask you, and now I've
15 forgot it, which I know will make you happy.

16 COMMISSIONER HARRIS: And I think this is going to
17 be somewhat tricky for the California fans, if they're
18 watching Santa Anita on an HRTV, then they've got to switch
19 to TVG to get your race. But they could give away remote
20 control clickers or something.

21 MS. THURMAN: That's a new promotion.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay. Does
23 anybody -- oh, I know what it was. Your Horsemen's
24 agreements, I see that the CTT agreement is here. And I got
25 an e-mail, either early this morning or late last night --

1 MS. THURMAN: Late last night.

2 COMMISSION CHAIRPERSON SHAPIRO: Late last night.

3 And I would just like to hear from TOC that the agreement is
4 in order and there are no issues with any of the Horsemen's
5 agreements. And you can just raise your hand, if that's the
6 case?

7 Drew raised his hand, so I'm assuming that will
8 suffice, we don't have to make him walk up here.

9 Okay, I will entertain a motion if anybody -- if
10 nobody else has questions?

11 Yes?

12 DEPUTY ATTORNEY GENERAL KNIGHT: Oh, no, I'm
13 sorry, just bringing some comment cards.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay, I was going
15 to get a motion and a second, and then I was going to do
16 that.

17 DEPUTY ATTORNEY GENERAL KNIGHT: Oh, okay.

18 COMMISSIONER HARRIS: Are we going to direct our
19 comments, first, or --

20 DEPUTY ATTORNEY GENERAL KNIGHT: You have to take
21 them.

22 COMMISSION CHAIRPERSON SHAPIRO: I have to take
23 the comments, first?

24 DEPUTY ATTORNEY GENERAL KNIGHT: Well, you need to
25 take them before you vote is all.

1 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I was going
2 to take them before we vote.

3 DEPUTY ATTORNEY GENERAL KNIGHT: Okay, that's
4 fine.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, so why
6 don't I do the motion. Is there a motion to --

7 COMMISSIONER MORETTI: I'll move.

8 COMMISSIONER HARRIS: Second.

9 COMMISSION CHAIRPERSON SHAPIRO: Is there a
10 second?

11 COMMISSIONER HARRIS: Second.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay. If there's
13 no more comments from the Commissioners. Mr. Couto, I don't
14 think it's necessary, even though you've filled it out,
15 okay. Mr. Jamgotchian?

16 MR. JAMGOTCHIAN: Mr. Chairman, members of the
17 Board, the only question I have is that there obviously is
18 always uncertainty with Bay Meadows Racetrack and its
19 operation what's the Board's general opinion with regards to
20 a waiver for Bay Meadows if, in fact, they do want to race
21 another year? It's clearly in the best interest of horse
22 racing to race. There's no replacement facility that could
23 really be put into condition and operate next year, in a
24 timely manner, with a turf course, with the REM material,
25 and an organization set up.

1 Does this Board consider Bay Meadows an asset that
2 maybe they would give a waiver to, like they did, obviously,
3 would give to Santa Anita to put in a dirt course? And with
4 the chaos that's occurred at Santa Anita, I think all of you
5 should really look at that. It's in the best interest of
6 California horse racing to race in Northern California. Bay
7 Meadows has a racetrack. If they request a waiver, are we
8 going to go through what we went through last year, when you
9 grilled Jack Liebau and the Bay Meadows people for a
10 racetrack that they wanted to maintain? Santa Anita and the
11 other racetracks put in a synthetic racetrack, at the cost
12 of millions of dollars, that don't work.

13 So I'm asking, is this Board interested in or
14 considering a waiver for Bay Meadows from the synthetic
15 track requirement or mandate? So can you just give me a
16 thumbnail sketch of what you believe is in the best interest
17 of California horse racing?

18 COMMISSION CHAIRPERSON SHAPIRO: Are you done?

19 MR. JAMGOTCHIAN: Yeah. Is there a response or no
20 response?

21 COMMISSION CHAIRPERSON SHAPIRO: Your comments are
22 not on point with the agenda item and, therefore, it would
23 be inappropriate for us to consider anything but what's in
24 front of us, which is an application to race this race
25 meeting. Thank you for your comments.

1 MR. JAMGOTCHIAN: Fine. Thanks.

2 COMMISSION CHAIRPERSON SHAPIRO: All right,
3 other -- if there's no other comment, I'll ask for the
4 question. All those in favor?

5 (Ayes.)

6 COMMISSION CHAIRPERSON SHAPIRO: It's passed, none
7 opposed.

8 Okay, thank you and good racing.

9 Item Number 4 on the agenda is discussion and
10 action by the Board on the application to conduct a horse
11 race meeting of the Sacramento Harness Association at Cal
12 Expo, commencing January 24th, 2008 through August 2nd,
13 2008.

14 Jackie, if it's okay with you, I'd like to just
15 add a few comments introducing this. This is a matter that
16 we heard previously. We did not take action on it, as I
17 recall and, in fact, we expressed some concerns about this.

18 When it was heard, we extended the existing
19 license -- no, we issued a license that runs through January
20 20th of this year. At that point, though, what we expressed
21 was that there were items missing from this application,
22 that are required, as well as there was expressions of
23 concern that were stated with respect to the financial
24 condition of this applicant.

25 In the intervening period, as I believe, I hope

1 all the Board members are aware of, Cal Expo, which is the
2 landlord for this racing association, has reduced the
3 monthly rent charged to Sacramento Harness by \$30,000 a
4 month. Which, for this operating period, would result in a
5 savings of about \$210,000.

6 The Association also has provided a letter of
7 information to us, which is really a copy of a letter that
8 was presented to the Cal Expo Board, that outlines some
9 other operating efficiencies or changes which would try to
10 improve their financial structure.

11 It should also be noted that in the intervening
12 period, Ralph Scurfield is no longer the President of this
13 Association, but one of their directors, Ivan Axelrod, is
14 now the President of this Association, and he's here, which
15 I see, to address our questions and concerns.

16 Personally, as I have expressed, I feel that it
17 would be -- I would hate to see harness racing disappear in
18 Sacramento. I would hate to see that we aren't able to find
19 a way to license harness racing and continue it in
20 California.

21 But I also have to share with the other Board
22 members that we still do not have audited financials, which
23 are required, and there are still some concerns with respect
24 to this operation. Most notably, the most concerning thing
25 to me is that the current paymaster account appears to be

1 also being used to fund operations of Sacramento Harness.

2 So I'm going to ask that you please advise us on
3 the status of that. The concern there is that if all of the
4 horsemen came in and said I want the money that I'm due, I'm
5 not sure that you have the funds on hands with which to keep
6 the operation going.

7 And while the law may not specifically state that
8 those monies are to be held in a separate account and no
9 commingled, I think that there is enough law that is
10 intending that that money is there for its beneficiaries,
11 which are those people that have won purses and are entitled
12 to that money.

13 I also should say that in the past few days I've
14 spoken with a variety of people, including Rod Blonien, who
15 advises me that you've now retained him as a lobbyist, and
16 that you are going to try to get some legislation that would
17 be advantageous or more helpful to harness racing and the
18 situation at Cal Expo.

19 And lastly, I spoke with Dr. Ed Allred, who has
20 indicated to me that he is willing to put up some financial
21 instrument as security, that would leave the Board with a
22 half a million dollars worth of, let's call it a security
23 deposit, for any issues, claims that were to arise as a
24 result of a default by SHA with respect to Board matters.

25 And the last issue I wanted to make is that one of

1 the things that we, as a Board, need to do is we need to
2 make sure that our operating costs are covered. When we --
3 for every race day that we approve, the Board incurs costs
4 for the stewards, for the official vet, for the
5 investigators, and other things that we provide,
6 licensing --

7 COMMISSIONER HARRIS: Testing.

8 COMMISSION CHAIRPERSON SHAPIRO: -- testing, all
9 those issues.

10 I believe that the Board needs and there perhaps
11 is law that provides, that we are not to provide those
12 things at a loss. And so as part of any licensing, I would
13 want to see that we are -- that we are assured that we will
14 not staff any race meeting, and this race meeting or any
15 other race meeting at a loss. Because, obviously, it
16 impacts our budget, as well.

17 COMMISSIONER HARRIS: Yeah, I think what you mean
18 by a loss, too, is there's license fees generated to go to
19 the State, which traditionally have been, you know, far more
20 than enough to take for this.

21 COMMISSION CHAIRPERSON SHAPIRO: Correct.

22 COMMISSIONER HARRIS: But some meetings, and this
23 one is a case in point, don't generate enough, so there's
24 sort of a deficit in that?

25 COMMISSION CHAIRPERSON SHAPIRO: I think that's

1 exactly right.

2 COMMISSIONER HARRIS: And, unfortunately, it's in
3 the law and it's not something that we have a lot of
4 flexibility on.

5 COMMISSION CHAIRPERSON SHAPIRO: Right. So when
6 you decide how many days of racing you apply for, and how
7 many you're going to conduct, one of the things that has to
8 go into your budget is understanding that that's an overhead
9 cost that needs to be covered.

10 So with that, what I would like to do is -- and I
11 hope I haven't thrown too much out there. I wanted to just
12 kind of bring the rest of the Board up to speed on where
13 this sits.

14 And perhaps, Mr. Feinberg, I don't know if it's
15 you or Mr. Axelrod, who wants to present to us what the
16 current status is?

17 MR. FEINBERG: Dick Feinberg, General Manager,
18 Sacramento Harness Association. I lost the coin toss, so
19 I'll have to present.

20 But the Chairman has summarized a number of things
21 which -- and some have come together within the last 24
22 hours, which have changed, a little bit, some of the
23 information that Jackie has, as we've provided the Board
24 with everything that we have.

25 We have secured a commitment from Dr. Allred for

1 an additional \$400,000 letter of credit. Bon Smith has the
2 information and the Board can act on that at its earliest
3 pleasure.

4 COMMISSIONER HARRIS: Who's the beneficiary of the
5 letter of credit?

6 MR. FEINBERG: The beneficiary would be the CHRB,
7 I believe is the way -- however you want to structure it.
8 But I've spoken to the bank and they're willing to -- and
9 Dr. Allred's willing to structure it in that manner.

10 COMMISSION CHAIRPERSON SHAPIRO: And as I spoke to
11 you a couple days ago, and as I spoke to Dr. Allred, the
12 CHRB would be the beneficiary.

13 However, one of the things that we also have got
14 to get into is the letter of credit would not be
15 specifically to cover any particular liability. And in this
16 regard is my -- I need to hear from you that when the Cal
17 Expo board agreed to a rent adjustment, are they requiring
18 that this security be posted such that they would be first
19 in priority should there be a claim?

20 MR. FEINBERG: There is a representative from Cal
21 Expo here, that may speak to that in a second. Dave
22 Elliott, I know is in the room.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay.

24 MR. FEINBERG: But the way that I understand the
25 structure of this is that the Board can dictate to the bank

1 how the letter of credit is to be structured.

2 COMMISSION CHAIRPERSON SHAPIRO: All right, so why
3 don't you go on and I'm sorry to interrupt.

4 MR. FEINBERG: All right. And the other component
5 which came into place on Monday, as you mentioned, was the
6 rent reduction. The Cal Expo Fair Board met and approved
7 the \$30,000 per month rent reduction for us, which will
8 reduce our exposure approximately \$210,000 for the period,
9 this license period.

10 Your comments about the purse pool. We have had
11 some unusual activity in terms of more than normal
12 withdrawals from our purse pool.

13 We do have, in addition to some funds on hand, we
14 have a guarantee from the Horsemen's Association, CHHA, to
15 fund any overpayment at the conclusion of this license
16 period in question. That overpayment of purses right now is
17 in the neighborhood of 350 to 400 hundred dollars. It was,
18 at the end of '06, 1.2 million. So we've made significant
19 progress in the past 12 months in paying down the
20 overpayment.

21 Also, we do have other instruments of credit. We
22 have the \$100,000 on deposit. We feel comfortable that we
23 can cover any sudden withdrawals, a run on the bank, as you
24 will, on our purse account.

25 Ivan, do you -- what were some of the other -- or

1 Commissioner --

2 COMMISSION CHAIRPERSON SHAPIRO: Can you identify
3 yourself and then also speak up?

4 MR. AXELROD: Yes. Ivan Axelrod, President of
5 Sacramento Harness Association.

6 I think the Chairman's question about the costs of
7 providing services to the operation, I'm not aware that we
8 have not -- I mean, we always have covered those costs. If
9 the license fees are not sufficient for the Commission, then
10 that will be another operating cost of the operation. And
11 so I would agree that those payments need to be made if, in
12 fact, they're not covered just by the handle.

13 COMMISSION CHAIRPERSON SHAPIRO: Mr. Axelrod, can
14 you give us more detail of, for instance, what is the
15 current liability of the paymaster account? In other words,
16 if every horseman came in today and said I want my money?
17 Because I am aware that there were certain checks that
18 didn't clear a week or two ago.

19 Now, if every horseman said I want my money, what
20 is the current liability?

21 MR. AXELROD: I think that number's about
22 \$350,000.

23 COMMISSIONER HARRIS: But those really go the
24 other way, that the horsemen owe the track money, but any
25 given horseman has earned pursues that he might want, but I

1 think in total --

2 COMMISSION CHAIRPERSON SHAPIRO: That's what I'm
3 talking about.

4 COMMISSIONER HARRIS: Yeah. But in total, I think
5 the track has got a receivable from the horsemen, but they
6 have to get that back over time.

7 MR. AXELROD: Yes. Yeah, we have a receivable, if
8 you want to call it, from the horsemen's organization. From
9 the individual horsemen, you're correct, they have earned
10 money, it's been allocated to them within the paymaster
11 account. That money, if everyone came in this morning and
12 said we'd like our money, I think is approximately \$350,000.

13 COMMISSIONER HARRIS: So that's 350, too.

14 COMMISSION CHAIRPERSON SHAPIRO: See, that's my
15 concern.

16 COMMISSIONER HARRIS: Yeah, well, I didn't realize
17 it was that big.

18 COMMISSION CHAIRPERSON SHAPIRO: No, no, my
19 concern is that if they do that, and if you look at the
20 financial statements that they have, they don't have
21 sufficient capital on hand that they would be able to pay
22 that. Isn't that correct? You don't have that much cash on
23 hand that you could meet those demands?

24 MR. AXELROD: Well, the answer is I'm not sure
25 that we have the cash in the bank to make that, all right,

1 today. But we would make all of that whole to the horsemen.

2 COMMISSION CHAIRPERSON SHAPIRO: Say that, again?

3 MR. AXELROD: We would make those payments to the
4 horsemen. We would accelerate some receivables that are
5 outside. As you know, in this business, there are
6 substantial receivables that are 30, 60, 90 days out, based
7 on where they come from, and we have the ability to
8 accelerate some of those just through our business
9 relationships Scotwink, and TVG, and others, to accelerate
10 payments that we would not do in the normal course of
11 business, but they are monies that are owed to us.

12 So, you know, our horsemen --

13 COMMISSION CHAIRPERSON SHAPIRO: Well, I didn't
14 get an updated balance sheet, so all I have is a profit and
15 loss, which is a projection of January through July. And
16 the last balance sheet I saw did not show that you had
17 sufficient liquidity, and I don't know -- I mean, if in fact
18 you can accelerate those receivables, then my question is,
19 well, why aren't you doing that now, if you can do it. My
20 concern is I don't think you can do it.

21 MR. AXELROD: Well, if we accelerated the
22 receivables and had more cash, all right, our horsemen, and
23 I don't know if it's any different in the thoroughbred
24 business, they leave money in their purse account for
25 different reasons. They'll take it out for holidays, at

1 Christmas, if there's a break. But, generally, they use
2 that as a non-interest bearing bank account.

3 MR. FEINBERG: Claiming and buying horses.

4 MR. AXELROD: Use it to claim horses when they
5 want to. So there is -- I mean, a lot of times, sometimes
6 that account has been as much as 700 or 800 hundred thousand
7 dollars. It's now about 350. So we don't pay it because
8 the horsemen don't ask for it. No different than, again,
9 any of these accounts.

10 COMMISSION CHAIRPERSON SHAPIRO: Yeah, but do you
11 understand my point that my concern is -- and, again, I'm
12 not trying to give you a rough time, my concern is that we
13 have a decision to make as a Board, and we have to make sure
14 that what we're doing in licensing any entity, is that they
15 have the financial wherewithal and capacity to meet all of
16 their obligations, okay. And, frankly, this Board needs to
17 adopt standards, not just for Sacramento Harness, but I
18 think for all of its racing licensees.

19 You know, now that we see that there are more
20 shell corporations, LLCs, things like that, we, as a Board
21 should come to grips with certain minimum standards.

22 But my concern here is that essentially those
23 monies are not Sacramento Harness's money. Those monies are
24 the individual beneficiaries, the horsemen, that whose
25 horses have earned those purses.

1 And what I sense here is that because of your cash
2 flow situation, you are using those monies to fund
3 operations. Now, that may historically have been the way it
4 is, and so forth. But the question then becomes is that
5 really right and what happens if, at a certain point in
6 time, you don't have enough cash on hand, what's going to
7 happen? And that's what I think we, as a Board, have to be
8 considering.

9 Because we need to make sure that our licensees
10 are sufficiently capitalized and we protect the horsemen in
11 every -- and all of the vendors, the employees, that they're
12 going to get their money. And that's the problem here.

13 I think it's wonderful that Dr. Allred is willing
14 to put up the \$400,000 security. I think it's great that
15 you have \$100,000. But if the horsemen made a run on the
16 paymaster account, and if it's \$350,000, well that could
17 mean that there's \$150,000 left.

18 I don't know what to do here.

19 MR. FEINBERG: Well, I think Commissioner Harris
20 brought up a point and perhaps, I'm not sure if Jim Perez,
21 who represents the CHHA, wants to speak to it, but I would
22 think that they may be willing to accelerate their payment
23 to us if we got in the situation.

24 But right now, what we owe the individual horsemen
25 is approximately the same amount that we are overpaid in

1 purses, which is the amount that's been guaranteed to come
2 back to us.

3 COMMISSIONER HARRIS: But that guarantee that
4 you're getting from the horsemen, is that -- I mean, do they
5 have sufficient assets to make good on that?

6 MR. FEINBERG: I think we can ask the question
7 right now.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, Mr. Perez,
9 why don't you introduce yourself. But that's the question,
10 do you guys have \$350,000 sitting in a bank somewhere? Go
11 ahead and introduce yourself.

12 MR. PEREZ: Jim Perez, Executive Director, CHHA.
13 Good question, that is a good question. Have to look at
14 our banking accounts and see if we do.

15 We, as a board, had this discussion with the reps
16 from SHA two weeks ago. This was a concern for us before
17 this was brought to your attention.

18 We met and we said the same thing, if there was a
19 mad rush, what would happen? We are aware that our horsemen
20 use the paymaster account, as Mr. Axelrod said, as their own
21 bank, basically, that they use it to buy horses and claim
22 horses.

23 So we had this discussion with Mr. Feinberg, Donna
24 Newman, the paymaster, and Vickie Sommer, from SHA. And
25 they basically said the same thing, you know, that they

1 could not make it whole today, but with deposits and with
2 the overpayment, which we believe is right around three,
3 they could make everything whole.

4 So do we have \$300,000 in the account today? I
5 can't answer that. I can look at the accounts, but I
6 couldn't answer that, if we had to cut a check today for
7 \$300,000.

8 COMMISSION CHAIRPERSON SHAPIRO: Well, let me ask
9 you a question, is there some place you could call, to make
10 a phone call to find out if you have that money? In other
11 words, if we said that we're -- let's take a pause on this,
12 and would you be able to make a phone call to find out?

13 MR. PEREZ: If our banker is in.

14 COMMISSION CHAIRPERSON SHAPIRO: Well, it's
15 Wednesday and --

16 MR. PEREZ: Yeah, it's our personal bank. I mean,
17 I can call, I mean she --

18 COMMISSION CHAIRPERSON SHAPIRO: I think -- I bet
19 that --

20 COMMISSIONER HARRIS: Even banker's hours are
21 open, now.

22 MR. PEREZ: No, if our personal banker, who we
23 deal with, is in the bank -- is at the bank today, who we
24 deal with. If we call up and get a random teller, well, I
25 mean, I have to get the account numbers from up north and

1 everything to do that. But I can probably see how much we
2 have in the account.

3 COMMISSIONER HARRIS: But does the Association
4 really have any assets or do you just have a bank account?

5 COMMISSION CHAIRPERSON SHAPIRO: Remember, he's
6 CHHA, they're the Association.

7 COMMISSIONER HARRIS: Yeah. No, the CHA, the
8 horsemen's association?

9 COMMISSION CHAIRPERSON SHAPIRO: The CHA.

10 COMMISSIONER HARRIS: Yeah.

11 COMMISSION CHAIRPERSON SHAPIRO: Do you have any
12 assets?

13 MR. PEREZ: Such as, I mean -- we live off our six
14 percent that we get from the operators. That's how our
15 operating goes, that's how we -- for our payroll, for our
16 staff, for everything that we have, that's what it goes by.

17 COMMISSIONER HARRIS: So you don't have like a
18 reserve fund, or buildings, or any of that sort of stuff?

19 MR. PEREZ: No, no. No, we've got a workman's
20 comp account, we have a welfare account. No reserves,
21 basically. So I mean, to find out what -- if you ask what
22 we have in our accounts today, I can probably find out. I
23 know that would cover 300,000 and I have no idea.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, in fact, I
25 spoke with Ben Kenny yesterday, who is the President of

1 CHHA, and it was my understanding, and I'm not sure, and
2 maybe he's watching and he'll send me an e-mail, it was my
3 understanding that the amount was far less than \$300,000 at
4 this point. That that amount --

5 MR. PEREZ: We feel it's around there, right. A
6 little bit less, maybe, right around there.

7 COMMISSION CHAIRPERSON SHAPIRO: Well, I thought
8 it was a hundred and some odd -- I don't know, it was 170,
9 or whatever it is, but maybe I didn't understand him
10 properly.

11 Again, I, personally, and I expect the rest of us,
12 we don't want to put harness racing out of business. The
13 question is, is this the best way or the only way to keep
14 them in business? I mean, how -- is there no chance of
15 getting any more equity invested in SHA? Is there no other
16 way to recapitalize this such that we have is a viable,
17 ongoing entity?

18 I mean, even with Dr. Allred's very gracious
19 offer, and Cal Expo's willingness to provide you with some
20 rent concession, you guys are still, you know, very, very
21 thinly capitalized, if that's the right word.

22 MR. FEINBERG: There's no question that we're
23 running on very thin margins. However, we believe we're
24 sufficiently capitalized. Notwithstanding a run on the
25 purse account, which we believe we can weather, that we're

1 sufficiently capitalized to conduct racing, and pay our
2 bills, and put on a good show from the period that this
3 license application considers, which is through August the
4 2nd.

5 Beyond that, I would agree with the Chairman that
6 there will need to be some new equity, recapitalization,
7 another way to look at this. But I believe that we can,
8 given the business plan that we provided to Cal Expo, and
9 that we've been working on, meet our obligations through
10 August 2nd. We wouldn't be sitting here if we didn't think
11 we could.

12 COMMISSION CHAIRPERSON SHAPIRO: Well, but the
13 projection that you provided to us from January through July
14 shows at the end of that period you'll have net income of
15 \$7,000. So it's more than thin. It's razor thin.

16 MR. FEINBERG: Right, it is.

17 COMMISSION CHAIRPERSON SHAPIRO: It's like that
18 new computer Steve Jobs has.

19 However, there are -- which I'd like one. Good.

20 MR. FEINBERG: In the letter that accompanied
21 that, to Mr. Bartosik, which you were copied on, there are a
22 number of cost-cutting measures that are not implemented in
23 the business plan. It does not consider additional payroll
24 cuts that we will be making, and additional operating
25 expenses that we feel at this point are more discretionary,

1 than necessary.

2 We'll, obviously, have to take a hard look at
3 everything, but my --

4 COMMISSION CHAIRPERSON SHAPIRO: Well, you don't
5 know what the impact of some of these cost-cutting measures
6 are going to be in terms of revenue generation.

7 MR. FEINBERG: Well, yes, we do.

8 COMMISSION CHAIRPERSON SHAPIRO: Other than maybe
9 the infield tote board.

10 MR. FEINBERG: No, we feel that these cost-cutting
11 measures will not have a negative impact on revenue
12 generation. And the revenue figures in that budget reflect
13 an eight percent decrease from the '07 actual numbers, with
14 the exception of ADW, which we feel has been pretty
15 constant.

16 So we are taking a very sober look at our ability
17 to generate revenue. And at the same time, although we are
18 a very lean organization, we're going to have to become much
19 leaner over the next seven months to make this work.

20 COMMISSIONER ANDREINI: Okay, Mr. Feinberg, I was
21 led to believe that Cal Expo wanted to be the beneficiary of
22 that letter of credit, rather than the CHRB.

23 MR. FEINBERG: That is not an incorrect
24 understanding. Perhaps the Cal Expo representative might be
25 able to clarify. But they were aware, when we met with them

1 Monday, that that would not be acceptable to the CHRB.

2 COMMISSION CHAIRPERSON SHAPIRO: And Commissioner
3 Andreini, just so you know, I had a conversation with Mr.
4 Bartosik, and their lobbyist, also, and told them that,
5 personally, while I can't speak for the Board, I would not
6 be willing to move forward with naming Cal Expo as a
7 beneficiary.

8 COMMISSIONER ANDREINI: Well, how can you?

9 COMMISSION CHAIRPERSON SHAPIRO: And then I
10 also -- well, we could.

11 COMMISSIONER ANDREINI: Yeah, I know.

12 COMMISSION CHAIRPERSON SHAPIRO: And then in
13 speaking with Dr. Allred last evening, I don't think he was
14 looking to post the additional security, if that were the
15 case, either.

16 COMMISSIONER ANDREINI: Exactly.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay.

18 COMMISSIONER ANDREINI: Mr. Chairman?

19 COMMISSION CHAIRPERSON SHAPIRO: Yes?

20 COMMISSIONER ANDREINI: Is there some way, Mr.
21 Feinberg, that you could -- and I don't know anything about
22 your business per se, but is there some way that you could
23 join forces with Cal Expo? Is that a reasonable --

24 MR. FEINBERG: Yes, that's possible, and those
25 options have been suggested by the Chairman and discussed.

1 But it would be something that would be for beyond August
2 2nd at this point.

3 COMMISSIONER ANDREINI: I see.

4 MR. FEINBERG: Because of the fact that we are
5 racing now, and it's both a timing issue and would be, I
6 think, a little difficult for Cal Expo to be that flexible
7 to step in immediately and become licensed. They may
8 want -- I think those are matters that certainly are going
9 to be discussed for the period beyond the State Fair, when
10 harness racing would be set to resume in mid-September.

11 COMMISSION CHAIRPERSON SHAPIRO: Well, you'll see
12 that the next agenda item, that's really not the right
13 forum, yet, to talk about that, the next agenda item is, in
14 fact, to discuss what other alternatives, and maybe we
15 should combine these issues.

16 COMMISSIONER CHOPER: Can I ask just a couple
17 quick questions?

18 COMMISSION CHAIRPERSON SHAPIRO: Please? You can
19 ask more than a couple.

20 COMMISSIONER CHOPER: When are we going to have an
21 audited balance sheet?

22 MR. FEINBERG: That was the other thing that I
23 need to speak about, and I forgot, because of the series --
24 can I answer that one and then go on to your next one?

25 COMMISSIONER CHOPER: Yeah, let me -- the next

1 question was can we approve a license without having a
2 current audited balance sheet?

3 COMMISSION CHAIRPERSON SHAPIRO: Well, we did last
4 time. I'm assuming we could either amend and extend this
5 until such time. But let's find out.

6 What I received, and maybe others did, too, I
7 don't know, is that we saw that there was an engaged for an
8 audited balance sheet from SHA. So when will that arrive?

9 COMMISSIONER CHOPER: And my third would be --
10 well, go ahead.

11 MR. FEINBERG: I received the answer yesterday,
12 and that what we are doing is there is going to be an
13 audited balance sheet for calendar year '07. It makes not
14 sense to go back and do '06 at this point, because '07,
15 aside from receivables and payables that are still out there
16 a little bit --

17 COMMISSION CHAIRPERSON SHAPIRO: When will we have
18 the one from '07?

19 MR. FEINBERG: For '07, right now we are
20 completing the receive --

21 COMMISSION CHAIRPERSON SHAPIRO: Mr. Feinberg, a
22 date?

23 MR. FEINBERG: A date? March 1st. That is what
24 our accountant, that we have hired, says.

25 COMMISSION CHAIRPERSON SHAPIRO: That's fine,

1 March 1st.

2 COMMISSIONER HARRIS: I think one of the big
3 issues that was --

4 COMMISSION CHAIRPERSON SHAPIRO: Wait, wait.

5 COMMISSIONER HARRIS: Oh, go ahead.

6 COMMISSION CHAIRPERSON SHAPIRO: Commissioner
7 Choper's not done.

8 COMMISSIONER CHOPER: Well, and I don't clearly
9 understand the effect of the \$400,000 letter of credit. And
10 I guess what I really want to ask is to what extent, and if
11 not to the full extent, and what's missing, does this
12 \$400,000 letter of credit provide, in effect, a \$400,000
13 guarantee that cash will be available to cover any expenses
14 that are unpaid, that are generated by the normal revenues
15 of the operation.

16 COMMISSION CHAIRPERSON SHAPIRO: This, in total,
17 they would have a half a million dollars. They have
18 \$100,000 in an account, which would have to be, I don't
19 know, I'm going to use that word, named to us, plus the
20 \$400,000. And it would be available to us to draw upon for
21 any defaults or liabilities that they might leave behind.
22 And it would be we could draw upon that.

23 We need -- remember, we're licensing somebody that
24 has a lot of financial obligations, and we -- and a lot of
25 employees that service this, and pension plans, and I mean

1 there's all kinds of things, and we're looking for some
2 financial security.

3 Now, whether half a million dollars is enough or
4 not, that's a different issue which must be considered.

5 COMMISSIONER HARRIS: But I'm not too happy,
6 though, with the CHRB being put into the position of
7 effectively a bankruptcy trustee would be what we would be,
8 and we've got this pool of money that we've got to pay here
9 and there. That's not really what we do.

10 I mean, really, I think what they need to do is go
11 in to Chapter 11 and get an administrator of what they've
12 got, or something like that. But I don't think we want to
13 be in the role of saying we want to give this guy a hundred
14 thousand, or this guy 50,000, or anything like that.

15 COMMISSION CHAIRPERSON SHAPIRO: Well, I don't
16 know that we're in that role, other than perhaps what we are
17 doing is we are holding a pot of money that if they did
18 go -- if anybody went into bankruptcy we, at least, have
19 been the guardians of this money to make it available, for
20 whoever decides where it should go.

21 I'm not saying that we are deciding where it goes.
22 I'm just saying that we have some financial security on
23 hand. Because I question the prudence of this Board
24 licensing anybody to run a race meeting, which involves so
25 many vendors, and employees, and so forth, and if they don't

1 have financial wherewithal, why are we licensing them.

2 COMMISSIONER CHOPER: Yes. Well, this may be a
3 total oversimplification, but it seems to me the key
4 question is what sort of -- what sort of surplus, reserve
5 for the payment of expenses is needed? I don't have a --

6 COMMISSION CHAIRPERSON SHAPIRO: And,
7 unfortunately, we, as a Board --

8 COMMISSIONER CHOPER: Yes.

9 COMMISSION CHAIRPERSON SHAPIRO: -- have never
10 dealt with that, which is something that we really need to
11 do. Which is to say -- I mean, I'm going to use an example,
12 I hope that Hollywood Park won't mind, but we require
13 Hollywood Park to post, I think, a one million dollar bond,
14 or something, for security. Because what they are is a
15 limited liability company with no assets, they're a shell.
16 So we, when they became licensed --

17 COMMISSIONER CHOPER: Well, that's a standard. So
18 we require a --

19 COMMISSION CHAIRPERSON SHAPIRO: Well, that's the
20 standard.

21 COMMISSIONER CHOPER: So Hollywood posts a million
22 dollars.

23 COMMISSIONER HARRIS: I don't know -- something
24 special about them. There needs to be some kind of formula
25 that I guess --

1 COMMISSION CHAIRPERSON SHAPIRO: That's right.

2 COMMISSIONER HARRIS: -- banks, or insurance
3 companies, or somebody uses as to what creates a viable
4 company.

5 COMMISSION CHAIRPERSON SHAPIRO: And we, as a
6 Board, have never dealt with it to come up and give SHA, and
7 anybody else, hey, look, if you want to be licensed, here's
8 one of the criteria, you must have a minimum capitalization
9 of X. We haven't done that and we should do that.

10 COMMISSIONER CHOPER: Well, then, the question is
11 if we don't know, what are they supposed to do when they
12 plan to race in eight days?

13 COMMISSION CHAIRPERSON SHAPIRO: Well, what we
14 are -- what we have --

15 COMMISSIONER CHOPER: That's what I just don't
16 understand.

17 COMMISSION CHAIRPERSON SHAPIRO: Well, what the
18 Board has done historically, whether it's right or it's
19 wrong, has required some minimum capitalization. And in the
20 case of this operator, when they were originally licensed,
21 it was half a million dollars. That's what it was. And at
22 that time they had what I would call a benefactor, who was
23 willing to post that money, and they had money in a bank
24 account, and so that's how they originally got licensed.

25 Now, they're back to be re-licensed, and we've

1 said, okay, you still have that half a million dollars, and
2 they've said, no, we don't. So they have been working to
3 put together the half a million dollars.

4 COMMISSIONER CHOPER: So now they have the half a
5 million.

6 COMMISSION CHAIRPERSON SHAPIRO: Now, they have
7 the half a million dollars, but when you look at their
8 operation and some of the circumstances, despite they're
9 trying very hard --

10 COMMISSIONER CHOPER: No, no, I understand, I do.

11 COMMISSION CHAIRPERSON SHAPIRO: -- they're in a
12 financial, a very precarious financial situation. And the
13 question is, we don't want to put the harness industry out
14 of business, but what do we do. Because I'm not sure what
15 we're licensing has the legs to make it.

16 COMMISSIONER CHOPER: Well, I guess there are two
17 things that occur to me. One is we can do -- if we assume
18 they want to start on the -- I mean, they do want to start
19 on the 24th of January.

20 MR. AXELROD: Well, we --

21 COMMISSIONER CHOPER: Pardon me?

22 MR. AXELROD: We are racing, now.

23 COMMISSIONER CHOPER: You're racing now.

24 MR. AXELROD: Yeah, we started this license period
25 on December 28th.

1 COMMISSIONER CHOPER: I see. Okay, I got it.

2 MR. AXELROD: And this is really a carryover --

3 COMMISSION CHAIRPERSON SHAPIRO: They're license
4 expires January 20th.

5 COMMISSIONER CHOPER: Okay. So if we don't want
6 to stop them from continuing to operate then --

7 COMMISSION CHAIRPERSON SHAPIRO: And understand
8 there's one unique thing, if they stop, there is a very thin
9 population of harness horses, horsemen. So if they were to
10 stop, they could do them in. Correct?

11 MR. AXELROD: It will.

12 MR. FEINBERG: Correct, yes.

13 COMMISSIONER CHOPER: So we're in a situation with
14 the relatively few choices under those circumstances. It
15 seems to me what we could do is ask for -- it seems -- this
16 balance sheet isn't going to tell us much more than we know
17 now, I'm afraid, in terms of the questions, the issues that
18 you put, and that is how much surplus do they have? What is
19 their cash position, for example, or their short-term asset
20 position, or what have you, the ability to pay bills as they
21 come due in the course of the business, and that seems
22 pretty poor. There's a hundred thousand some place, I
23 understand, and there's 400,000. We want to be assured
24 that's signed up in a proper way and available in a proper
25 way to take care of this.

1 I think we ought to have the answer. We ought to
2 have some inquiry made as to what sort of financial
3 requirement, specifically, should we have in light of a
4 particular situation.

5 COMMISSIONER HARRIS: Also, when we license
6 somebody, does that imply that the Board feels they're
7 financially viable or not. I mean, I think people might
8 assume by them being licensed that whoever it is, is
9 financially able to do things. If they go into bankruptcy,
10 is the Board going to be blamed.

11 COMMISSIONER CHOPER: Well, it would be very hard
12 for us to give assurances to anyone, it seems to me, under
13 the circumstances, as we understand them today.

14 COMMISSIONER HARRIS: Perhaps we could make the
15 case that we don't give any assurances, it's just everyone
16 takes their chances.

17 COMMISSIONER ANDREINI: Do we know for sure
18 whether Cal Expo is lurking in the background, I mean, and
19 they're your landlord, are they demanding that --

20 COMMISSION CHAIRPERSON SHAPIRO: Let me just tell
21 you, in my conversation with them, first of all, they have a
22 lease with this organization. They do not want to interfere
23 with an existing contractual relationship to where they
24 could take on some legal liability.

25 Now, Cal Expo, I believe, is desirous of seeing

1 harness racing continue. I, personally, have said to all
2 the parties that to me it would seem that the best answer
3 would be if Sacramento -- if Cal Expo would become the
4 licensee and they would turn around and contract with SHA to
5 operate it, and we would all kind of have, I think, what we
6 need. But they haven't demonstrated a willingness.

7 Why don't we ask the representative, who's here
8 from Cal Expo, to state their position. I don't know if
9 it's Dave?

10 COMMISSIONER HARRIS: Yeah.

11 COMMISSION CHAIRPERSON SHAPIRO: Dave, I'm sure
12 you're really looking forward to getting into this, so
13 welcome.

14 MR. ELLIOTT: Not a problem. Dave Elliott,
15 California State Fair. For starters, I wanted to make sure
16 that we were on record. Our board, in their action
17 yesterday, with reducing the monthly rent to our tenant,
18 Sacramento Harness Association, our board understands that
19 they cannot be first on the list for this \$400,000 letter of
20 credit. They didn't like it, but they understand that that
21 would be, you know, an impossibility. So I just wanted to
22 go on record stating that, for starters.

23 Sacramento Harness, they're a tenant of ours, and
24 they've been a good tenant. And we, at Cal Expo, as many
25 people in this room know, have supported harness racing at

1 Cal Expo, whether it be with Capitol Racing, when we
2 operated, got out of the thoroughbred industry in '05, to
3 save the industry, or our continued support with SHA.

4 They're a tenant of ours. We can't go out there
5 publicly and say, hey, we're waiting in the wings to jump up
6 and operate a harness meet. They're a tenant of ours. We
7 stand ready to support the industry, as we always have, a
8 lot of times to our -- to some public outcry. We've taken a
9 lot of heat over the years in doing that, but we still stand
10 ready to support Sacramento Harness as our tenant. They've
11 been a good tenant. They have had some financial
12 difficulty, obviously, with the sheets that you're looking
13 at. But we have confidence that they will continue with
14 their operation, regardless of what the bottom line looks
15 like in July.

16 We, at Cal Expo, we've taken the hit. This is the
17 second rent reduction for this group, and our board of
18 directors have remained constant in their support for the
19 industry.

20 COMMISSION CHAIRPERSON SHAPIRO: Thank you, Mr.
21 Elliott.

22 Perhaps what we could do is I would like to be
23 able to move to Item Number 5 on the agenda, which would
24 allow us to expand this discussion. Because Item Number 5
25 is a discussion and possible action by the Board of options

1 to conduct harness racing in California.

2 What that is, would allow us to see and ask the
3 questions of what else is -- what other options are there
4 for harness racing. We know that what we have in front of
5 us is a license application, with a specific licensee,
6 Sacramento Harness.

7 And I don't think anybody's going to disagree, and
8 please disagree if you do, that they are -- their balance
9 sheet would be very thin in terms of having any assets.
10 Would you agree, at the end of the day?

11 MR. AXELROD: Yes.

12 COMMISSION CHAIRPERSON SHAPIRO: Fine. So we
13 don't have the audited statement yet, but we do know that
14 it's very thin, at best.

15 Mr. Perez?

16 MR. PEREZ: Mr. Shapiro, just to clarify something
17 that was said, I think there's a misunderstanding somewhere
18 on when the meet ends. I was informed by SHA it's a
19 continuous meet all the way through, I think they're
20 licensed to July. You just said that the license ends
21 January 20th.

22 COMMISSION CHAIRPERSON SHAPIRO: Okay, it's a
23 technical issue. What this Board did was we approved, at
24 the end of last year, a new license meeting -- we approved a
25 new license. But because of this precarious situation, we

1 basically said, well, we don't want to close them down, so
2 we'll let them operate until January 20th.

3 What we're doing here today is to see if we're
4 going to license them beyond January 20th and through August
5 2nd.

6 Okay, so they are licensed right now until January
7 20th. If we don't approve a license today, they're not
8 authorized to go beyond January 20th.

9 MR. PEREZ: I understand.

10 COMMISSION CHAIRPERSON SHAPIRO: That's all.

11 MR. PEREZ: But the current, even if you do
12 license them today, the current meet still ends January 20th
13 and a new meet starts, you're saying?

14 COMMISSION CHAIRPERSON SHAPIRO: We will simply
15 amend the application to let it go through.

16 MR. PEREZ: Okay.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, so don't
18 get --

19 MR. FEINBERG: It's also an important
20 clarification for us, for two reasons. We're under the
21 assumption, and maybe legal counsel can help that, yes, this
22 is a continuous meet from December 28th, as you say, you
23 granted us until January 20th and, hopefully, we can clean
24 up the issues today to continue to August 2nd.

25 The application in front of you is the same one

1 that we put forth in November and December. The reason it's
2 important is for two reasons. One is union contracts would
3 expire. Another is claimed horses could leave.

4 COMMISSION CHAIRPERSON SHAPIRO: Mr. Feinberg, we
5 know what the issues are.

6 MR. FEINBERG: Okay, thank you.

7 COMMISSION CHAIRPERSON SHAPIRO: We would simply
8 amend it to extend the date.

9 MR. FEINBERG: That was all I was looking for.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, so let's go
11 to Item Number 5. What other options are there for harness
12 racing, if this licensee is not approved? What other
13 options? I mean, I've heard Vallejo, I'm assuming that
14 Vallejo is -- the people from Canada are no longer
15 interested and Vallejo's not in the picture. It only
16 appears to me that the only viable place to race is
17 Sacramento, and that includes that there would be a
18 cessation during the State Fair, where they're going to run
19 thoroughbreds.

20 Is that correct? And are there any other
21 operators on the horizon, is there anybody else that's
22 interested, that would be more sufficiently capitalized?

23 MR. AXELROD: I'll give my best answer to all of
24 those. I think at the present time Sacramento is the
25 forward looking facility that will house harness racing.

1 While everyone looks at maybe there's some other racetrack
2 that could become viable, as far as we know they're not on
3 the table, including Vallejo.

4 Cal Expo, in our meeting with them on Monday,
5 again, issued their strong support for continuing to support
6 harness racing in California. And I think they will
7 continue to do that. Even with the thoroughbreds racing
8 during the fair, there could be a program to deal with where
9 the horses go for the six-week period in between.

10 As to viability of operators, you may or may not
11 recall when Sacramento Harness was put into being in 2005,
12 it was set up as a not-for-profit operation, organization to
13 really help the harness racing industry.

14 And as part of that, put into our bylaws and how
15 we operate that a hundred percent of the profits from the
16 operation would go to a combination of players, one being
17 charities within the Sacramento area, the second would be
18 additional pursue money for the horsemen, and the third
19 would be additional money put into the plant at Cal Expo.

20 If you look at that, it then meant the entity
21 would never have any more money than it had on day one.

22 Now, we expect to be able to do that for the
23 three-year period, and I believe when all is said and done,
24 we will.

25 On a going forward basis, I don't think it is

1 practical to have this kind of structure. If you're going
2 to give a hundred percent of your profits away, you never
3 are in a position to weather any kind of storm, other than
4 people saying for the good of harness racing, I'll throw you
5 another half a million dollars.

6 So it needs to be recapitalized and with an
7 opportunity for the people that put in capitalization to
8 receive some type of a return on their investment.

9 Cal Expo, I think, in my discussions with them,
10 would have a desire, under the right circumstances, to
11 become the operator again. There are, as they say, from
12 time to time some interest from other parties, at
13 substantially lower rent than we are paying. And so the
14 whole rent structure has to be looked at going forward.
15 Because if we were paying what was paid four or five years
16 ago in rent at Cal Expo, it would be half of what we're
17 paying now, which would leave another million dollars on the
18 table for profitability.

19 So there are a lot of things that need to be
20 addressed and changed. And as we left the meeting on
21 Monday, with Cal Expo, we said assuming, and hopefully that
22 we get formal licensing on Wednesday, today, we would begin
23 discussions with them on how we would structure August going
24 forward, as well as dealing with the issue that you have
25 broadened this morning, about what should be the

1 capitalization of a licensee.

2 Because Cal Expo, to be honest -- to be truthful,
3 they felt offended that you said we were paying too much
4 rent. They made an arms length transaction with us and now
5 they've felt that they're being pushed to reduce that
6 somewhat, to make it viable for us.

7 We'd like to negotiate that going forward in the
8 future with them, and stick to a deal, obviously, that we
9 make, and do that.

10 And so I think all the parties want to achieve the
11 best results, but I think it is going to need some changing
12 in structure and changing in capitalization as we go
13 forward.

14 COMMISSIONER HARRIS: And on the Cal Expo issue, I
15 did get some feedback that the Cal Expo board felt that the
16 CHRB was being heavy handed in telling them how much rent
17 they should be charging, which is not what happened at all.

18 I mean, I don't think we care how much rent you're
19 paying or not paying, all we want is a viable association.
20 So they completely misconstrued what we were trying to do.

21 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I agree
22 with that, in fact. I did call them when I heard that it
23 was being portrayed that we were saying things like, you
24 know, they're paying too much rent and things like that.

25 What we said was that given the financials

1 presented to us, and given an understanding of the line
2 items and the rent being the largest line item, it didn't
3 appear that you could afford the rent that you were paying.
4 And, therefore, without some reduction in your operating
5 expenses, we did not know how harness racing could remain
6 viable and stay in existence. And Cal Expo has a decision
7 to make, which is theirs to make. If they don't want to
8 reduce -- if they didn't want to reduce the rent, don't do
9 it. But they will not get any rent because we won't be able
10 to license you.

11 I mean, we had to find -- we're looking to try to
12 help everybody, including Cal Expo, which derives a benefit,
13 I'm assuming, from the income that you pay them in rent, and
14 also to keep harness racing alive and viable in California.

15 So their comments were out of context. And,
16 again, we're not telling them what to do, we're trying to
17 find a solution.

18 MR. AXELROD: And I think in response to that,
19 from the Board meeting at Hollywood Park, we went back and
20 obtained what we thought were two items that would move this
21 Board to approve our license, which was getting another
22 \$400,000 of guarantee, in case there was a shortfall come
23 August, and in reducing our operating costs by another
24 \$210,000 at a minimum, because there will be additional cost
25 reductions.

1 And, you know, your comment about the financials
2 show a break even for the seven months, I've been a CPA for
3 many years, and I have looked at lots of financial
4 statements that show substantial profits and projections,
5 and people invest, and then they lose their money. So I was
6 not -- and I could have done that in these projections,
7 which we clearly did not. We wanted to be fair and
8 reasonable, and know we could meet those numbers, and that's
9 why we built in reductions in our revenue, and we have
10 additional costs. I mean, I am going back to ask for -- or
11 demand some salary reductions from all of our employees for
12 the next six-month period, in order to make, again,
13 additional inroads.

14 So there are additional things we're doing and we
15 strongly believe and are confident that we will make the
16 payments, and handle our operation through August.

17 Come the next licensing period, I think you will
18 see something substantially different.

19 COMMISSION CHAIRPERSON SHAPIRO: Well, I
20 appreciate it, Mr. Axelrod. And I know that -- I've never
21 met a pro forma yet that was correct. They're always wrong.
22 Hopefully, they're wrong in your favor.

23 So I throw it out to the Board to try to get some
24 input on where you think we should go.

25 COMMISSIONER MOSS: What is the Board's liability

1 in all this? I mean, if, let's say the business fails, do
2 the horsemen come to us for payment? I mean, is that the
3 way it works? What happens, you know, what is our liability
4 here?

5 DEPUTY ATTORNEY GENERAL KNIGHT: The Board's a
6 licensing entity, and except for this possible entanglement
7 with this letter of credit, you're not responsible for the
8 debts of the operator. And those are arms length
9 transactions that they have with their employees, and
10 contractors, and so on, so it should not come here.

11 Now, that's one of the concerns that I had with
12 this letter of credit, we need to make it clear what the
13 letter of credit is for. And if it's going to somehow
14 involve the Board, we need to make it clear who, ultimately,
15 is the beneficiaries of the monies. And it wouldn't be the
16 Board. Presumably, it would be to pay debts that were
17 unsatisfied. And I kind of like the Chapter 11 or 13 idea,
18 myself.

19 But, yeah, that would be the only complication.

20 COMMISSIONER MOSS: So once we clarify that, or
21 where that letter of credit exists or where it stands in the
22 face of this business, if we approve this license and allow
23 this business to continue, so to speak, and then perhaps, at
24 some point, come up with some future regulations of what a
25 business has to consist of, you know --

1 COMMISSION CHAIRPERSON SHAPIRO: Certain criteria.

2 COMMISSIONER MOSS: Certain criteria. That we do
3 not have now. What is the harm in that?

4 COMMISSION CHAIRPERSON SHAPIRO: I don't know that
5 there is harm and we clearly have to come up with criteria.
6 The question is, you now, is the Board inclined to want to
7 license this entity, knowing what the financial situation
8 is?

9 COMMISSIONER AMERMAN: Well, it seems that
10 possibly we could do the same thing we just did in going
11 through January 20th. I feel very uncomfortable looking at
12 balance sheets from December 31, of 2006, having no other
13 data. I heard the gentleman say that they'd have audited
14 balance sheet by March 1st. What would be wrong with
15 extending it for two more months and coming back again
16 once --

17 COMMISSION CHAIRPERSON SHAPIRO: Nothing. We can
18 do that.

19 COMMISSIONER CHOPER: That was exactly what I had
20 in mind. But I think there's another reason. I'm not
21 looking forward to those audited balance sheets. But what I
22 am interested in, within a two-month period, would be the
23 extent to which current operations are -- what the result of
24 the current operations are.

25 And, secondly, the extent to which the 400,000 or

1 500,000, I'm not a hundred percent clear on that, is going
2 to protect the operation until the 2nd of August.

3 So I would second your motion to extend this for
4 60 days, from the 24th.

5 COMMISSIONER AMERMAN: And I would hope that we
6 could have some projections going forward, based on what's
7 happening in January, and February, and maybe into March.
8 Because on the surface, and I think that's what's been said,
9 the business isn't viable this way, and it has to be
10 changed.

11 So what are the programs, what are the thoughts
12 that you have that will change this going forward?

13 MR. FEINBERG: Well, the first thought, that if
14 you do extend it for 60 days, we probably won't be able to
15 fulfill those obligations because our horsemen will view
16 that as a clear sign that they need to look for someplace
17 else to race, and there are numerous opportunities in slot-
18 rich states where they can take their horses, and will. So
19 I don't think we'd be able to perform with another
20 extension. They're looking for some confidence. They look
21 to us, they want to know they're going to race for a finite
22 period of time so that they can plan their futures, also.

23 And, Ivan, do you agree with me?

24 MR. AXELROD: Yes, I agree. And, again, when we
25 provided the October financial statement to the Board, which

1 showed a slight profit, and that was from January through
2 October. November and December have been comparable.

3 And we've provided the additional financial
4 reductions in rent, that start in January, and the
5 additional \$400,000 that will be structured appropriately.

6 I'm not sure what the statement -- what things we
7 would show you in March, that would give you more or less
8 confidence. If we broke even in January and February, would
9 be sitting here now, in March, saying, well, it's still
10 shaky?

11 I mean, I don't know what we could give you that
12 would provide you more than what you have today.

13 COMMISSION CHAIRPERSON SHAPIRO: Well, let me
14 address that. Because, frankly, I'm taken back by the
15 statement that Mr. Feinberg just made. And up until three
16 days ago, since our last Board meeting, not one person
17 contacted me, maybe they were contacting other members on
18 this Board, about this situation. Not one.

19 And it was only after I had a conversation with
20 Mr. Feinberg yesterday, or the day before, that I said you
21 need to provide us with a budget, a plan, and we weren't
22 presented with anything and in terms of what the plan was.

23 And I think we were very clear, when we heard this
24 last time, that what we are looking for is a business plan
25 that shows us that the business is viable and what you're

1 going to do.

2 Now, I understand that you could not schedule the
3 Cal Expo board meeting, I understand what the difficulties
4 were there. And I spoke to Mr. Feinberg about it and I
5 said, you guys have got to come up with a plan.

6 So what we get is a copy of a letter and a
7 projection that's given to the Cal Expo board, but doesn't
8 address what our concerns are. We have been asking for
9 audited statements for well over six months, eight months,
10 and only what we got was a letter from Mr. Scurfield that
11 said, oh, you'll be happy to know we've engaged to get an
12 audit. We've satisfied your concern, we've engaged somebody
13 to do it. But no numbers.

14 Now, you're telling us essentially, that if you
15 do, which I believe is prudent, what Commissioners Choper
16 and Amerman have said, which is, okay, let's keep you alive
17 for 60 days, let's get the items that you're required to
18 give to us, and we don't give you until August, now you're
19 telling us you're going to lose all the horsemen.

20 So you're putting us in the position of either do
21 what we want or you might as well call it a day. Is that
22 what you're saying?

23 MR. FEINBERG: Well, to go back one point. We
24 did, via fax, let you know before Christmas that we had
25 contracted to have the audited financials.

1 COMMISSION CHAIRPERSON SHAPIRO: I just said that.

2 Great, you contracted it.

3 MR. FEINBERG: You never told us whether that was
4 sufficient, insufficient or --

5 COMMISSION CHAIRPERSON SHAPIRO: Mr. Feinberg.

6 MR. FEINBERG: No, no, we didn't.

7 COMMISSION CHAIRPERSON SHAPIRO: Mr. Feinberg, do
8 you think -- were we unclear at the last meeting, where we
9 said, and in the eight months preceding it, that you must
10 give us audited statements?

11 MR. FEINBERG: Yes.

12 COMMISSION CHAIRPERSON SHAPIRO: We've been clear.
13 Great. You sent a letter by fax that said you're
14 contracting for it. Is it my job to call you and tell you
15 that, no, you do the audit? You're talking to our staff,
16 you know that.

17 But we're sitting here today and you have not
18 given us anything, other than what you gave to the Cal Expo
19 board, and now you're saying that if we don't approve your
20 license through August 2nd that, essentially, you're going
21 to lose all your horsemen.

22 MR. AXELROD: I think it's a possibility that we
23 will lose our horsemen. And I believe that we had satisfied
24 your requirements. We can't --

25 COMMISSION CHAIRPERSON SHAPIRO: Do we have an

1 audit?

2 MR. FEINBERG: We're working on an audit.

3 COMMISSION CHAIRPERSON SHAPIRO: Do we have an
4 audit?

5 MR. FEINBERG: How could you have an audit --

6 COMMISSION CHAIRPERSON SHAPIRO: The answer's no.

7 MR. FEINBERG: -- when the calendar year ended 15
8 days ago.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, you haven't
10 done an audit for 2006, let alone an audit for 2007. You
11 didn't give us, and you could have done an interim
12 statement. I mean, let's not argue this, it doesn't matter.
13 The point is what are we going to do?

14 I, personally -- you know, I, personally, don't
15 want to make this decision because, you know, I feel such an
16 obligation or a history with harness racing. So I'm looking
17 to the other Board members and, frankly, I'm going to go
18 with the flow on this one, because I don't know what to do
19 here.

20 MR. FEINBERG: And what I was representing was
21 that a 60-day extension would, I believe, put our racing
22 program in jeopardy. I'm just being as candid as I can be,
23 as that idea comes up.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, how many
25 horses did you lose in the last month, when we only licensed

1 you for about a month?

2 MR. FEINBERG: We probably lost in the
3 neighborhood of a couple of dozen. However, the prosperous
4 stables are not going to stay if there is uncertainty.
5 Certainly, the hand-to-mouth trainers will stay because they
6 have no place to go.

7 COMMISSION CHAIRPERSON SHAPIRO: Isn't it
8 uncertain -- no matter what we do, isn't the future
9 uncertain?

10 COMMISSIONER MORETTI: That's what I would like to
11 know.

12 MR. FEINBERG: That's true. But certainly, if
13 we're licensed until August 2nd, we can at least give them
14 the comfort to know that they have a season, a program,
15 their horses are in training, they will be racing for X --

16 COMMISSION CHAIRPERSON SHAPIRO: What if we say to
17 you, we're going to license you to March, but we all want to
18 see you survive for years and years ahead, we are not
19 looking to put you out of business. I think we've all been
20 clear.

21 MR. FEINBERG: Perhaps --

22 COMMISSION CHAIRPERSON SHAPIRO: Does that give
23 any more comfort?

24 MR. AXELROD: Yes, it does. And I'm going to ask,
25 I think, an unfair question, but I have to ask it, at least

1 to put it on the table.

2 COMMISSION CHAIRPERSON SHAPIRO: That's fine.

3 MR. AXELROD: What would the balance sheet,
4 audited or not, have to show that you would say, okay, we're
5 approving your license through August? Because, you know,
6 it's going to show that we have probably, equity wise, very,
7 very little. We will have some net worth because we've been
8 profitable in '07, and overcame what was in '06. So we're
9 going to be slightly profitable. Certainly, we're not going
10 to have any substantial net worth at all.

11 It may show that we have some assets, but then,
12 again --

13 COMMISSION CHAIRPERSON SHAPIRO: Mr. Axelrod, it's
14 a very fair question, and it's actually correct. I don't
15 think the balance sheet's going to show squat. Okay, I
16 don't think it's going to impact this.

17 The issue is what is really the business plan
18 going forward and I think what I thought I heard the other
19 Commissioners saying was we want to see that over the next
20 two months that you are, in fact, implementing some of these
21 other changes, that you're putting a business plan together.

22 I, personally, agree with you. I don't think
23 that -- it is a requirement that you do it and, therefore,
24 you must do it. Okay.

25 MR. AXELROD: Okay.

1 COMMISSION CHAIRPERSON SHAPIRO: But I don't think
2 the balance sheet is going to show anything and that's why I
3 turned to Commissioner Choper and I said, look, they're
4 going to have -- they're thinly capitalized and they're
5 going to have some assets, a little, it doesn't matter
6 because I agree with you.

7 The question is should we be going all the way
8 through August or should we take a reality check and say
9 we're going to license you, but we want to see that you're
10 implementing these changes and, in fact, you're moving
11 forward. Okay, I think that's the real issue.

12 And there, I have to look to the other Board
13 members, you know. I honestly don't know.

14 I've got a question that's a little off the field.
15 The California Sire Stakes, which are the biggest purses you
16 offer, appear to me to go to a very small group of horsemen,
17 because they're for horses that are born in the State of
18 California, and there are less than 100 horses born in the
19 State of California a year, much less.

20 So is it not viable or possible to take that
21 money, as you're hiring a lobbyist, and get rid of the Sire
22 Stakes Program, so that you could redistribute that into
23 overnight purses, which would raise your pursues so that you
24 could get more horsemen out here?

25 Maybe you're a breeder and so that wouldn't be

1 good.

2 MR. AXELROD: No, I'm not a breeder, but that's
3 really the issue. You're talking about, again, changing the
4 law so that there is no Sire Stakes program, to benefit the
5 overnight program. And there have been internal discussions
6 within the industry about that, and the breeders clearly
7 would say you'll put us out of business.

8 COMMISSION CHAIRPERSON SHAPIRO: How many breeders
9 are there, ten?

10 MR. AXELROD: Well, they breed 150 horses and they
11 have the farms.

12 COMMISSION CHAIRPERSON SHAPIRO: Again, you guys
13 have to put a plan together --

14 MR. AXELROD: I heard you.

15 COMMISSION CHAIRPERSON SHAPIRO: -- that's going
16 to show that harness racing is going to be viable. Because,
17 obviously, it's not proving to be viable. And your problem
18 is purses. I understand you're up against the Racino
19 Stakes. But you guys have to do something to get horsemen
20 out here. Otherwise, we're just wasting our time.

21 COMMISSIONER CHOPER: Can I ask one question,
22 please? I mean, what you have said about scaring off
23 horsemen is of a concern.

24 What has been your operating profit since, let's
25 say, the last four months of the year, when you've been

1 operating? September, October, November, December, is that
2 right? Yeah, what has been the bottom line, roughly, I
3 don't --

4 MR. AXELROD: Well, the bottom line was a slight
5 profit and it's a slight profit because December, with the
6 holidays this year, our racing dates were substantially
7 less. How many days did we race? Twelve? Yeah, we only
8 race 12 days in December. So if you pulled December out,
9 September, October, November we probably made about
10 \$200,000. But in December --

11 COMMISSIONER CHOPER: And is it your view is that
12 that should continue; is that right?

13 MR. AXELROD: Well, January, February and March
14 are our stronger months. In the winter months, we do our
15 best business. January, February, March, April. It slows
16 down in the summertime.

17 COMMISSIONER MOSS: How many outlets bet on
18 harness racing in the State of California?

19 MR. FEINBERG: All of them except the little ones
20 in -- I don't think Eureka is open and a couple of the
21 others. But I think in the neighborhood of 30, the regular
22 satellites, plus the racetracks.

23 COMMISSION CHAIRPERSON SHAPIRO: Perhaps, what is
24 your average daily handle, I think that might help you
25 understand. What's your average daily handle, all sources?

1 MR. FEINBERG: I don't have the actual number with
2 me.

3 COMMISSION CHAIRPERSON SHAPIRO: Well, can you
4 take a ballpark?

5 MR. AXELROD: Well, including the few imports that
6 we're allowed, that we add to our handle number, in the
7 neighborhood of 700, 750 right now.

8 COMMISSION CHAIRPERSON SHAPIRO: \$750,000 a night
9 is their average daily handle from all sources, including
10 imports.

11 COMMISSIONER AMERMAN: It seems to me this
12 conversation has all gotten flipped around. You're saying
13 that if we don't license you, business is not going to be so
14 good. What we're trying to say is we want to see your plan
15 going forward so that you can be viable.

16 We didn't see it at this meeting. My thought was,
17 okay, if you couldn't do it in a month, maybe you can do it
18 in two months. And I think it's on your shoulders to take
19 this project and tell us what is happening up there over the
20 longer term. It's a management issue, it's not a CHRB
21 issue.

22 MR. FEINBERG: It certainly is. And our plan is
23 to survive until August 2nd and then, obviously, to regroup.
24 If we don't change direction soon, we'll end up where we're
25 going and it's not a good place.

1 COMMISSIONER AMERMAN: I, for one, listening to
2 this conversation today, don't have confidence that you're
3 going to make it until August 2. Therefore, I suggested we
4 go two months and find out where you are. I realize it
5 creates some complications, but that's what management is
6 all about.

7 COMMISSION CHAIRPERSON SHAPIRO: May I offer a
8 motion?

9 COMMISSIONER AMERMAN: Please.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, and I would
11 move that this license be extended for -- today is the 16th.
12 That this license be extended for 60 days and that we rehear
13 the license to consider a further extension of it. And as
14 part of that, that the security that there be at least
15 \$500,000 of security in a form that is satisfactory to the
16 Board, to cover any potential liabilities and debts. And
17 that that language should be worked out with our staff, so
18 that we get that right.

19 So that in the intervening period, that as a
20 condition you must provide to us an audited balance sheet
21 and income, and profit and loss statement. And that you
22 also will provide to us an updated budget, which includes
23 all of the cost savings and other steps you are taking in
24 the intervening period.

25 I don't think we're going to really solve it

1 beyond that. I do not want to see harness racing just -- I
2 would also --

3 COMMISSIONER HARRIS: Are we talking --

4 COMMISSION CHAIRPERSON SHAPIRO: Let me just get a
5 second.

6 COMMISSIONER MOSS: I only want to say that that
7 would be 60 days, it would end before March -- it would end
8 before any part of the stakes schedule started, and I'm just
9 wondering if maybe we should --

10 COMMISSION CHAIRPERSON SHAPIRO: Their stakes
11 schedule?

12 COMMISSIONER MOSS: Yeah, maybe we should include
13 like another month or so to include them completing -- at
14 least the opportunities to complete some stakes. I mean,
15 I'm not that familiar with harness racing.

16 COMMISSION CHAIRPERSON SHAPIRO: Well, they have
17 their stakes program, but he sires stakes run throughout the
18 year. I would prefer that we stick to the 60 days and we
19 can reconvene. Again, and the motion should certainly
20 include every incentive that you should publicize and make
21 it very well known to the horsemen that this Board wants to
22 see harness racing continue.

23 And I also think if there is another operator or a
24 different plan that can be brought forth to the Board, that
25 would provide more financial security, I think we would love

1 to entertain that. I heard that SHA would like that. Yes.
2 Then I would encourage that Cal Expo, and anybody else that
3 they want to come to the Board with another plan to keep it
4 going as a more viable entity, that we would consider that.

5 COMMISSIONER CHOPER: I would be willing, just a
6 thought, to say that if they continue, for whatever number
7 of days that we select here, to have an income situation
8 similar to that which is experienced for the last four
9 months, I'd be willing to continue the license.

10 I mean, the bottom line is I'm just concerned very
11 much that there's going to be a collapse, and even the four
12 or five hundred thousand dollars isn't going to be enough,
13 and that's not going to be fair to a lot of people who are
14 relying on getting their bills paid.

15 COMMISSION CHAIRPERSON SHAPIRO: Commissioner
16 Choper, I don't quite understand, so what are you amending
17 the motion to do?

18 COMMISSIONER CHOPER: I don't know that I'm
19 amending it, but what I want to say is that my own
20 inclination is to change my mind from my original thought of
21 the 60 days. I don't want to do anything that is going to
22 be a negative so far as their continued success is
23 concerned.

24 Now, we've been told that for the last four months
25 they have operated without a loss, let's just put it that

1 way. If they continue to operate without a loss and you've
2 got 500,000 up in the corner, that means everyone is going
3 to have their bills paid by the end of the meet.

4 So I would be willing to go ahead, or at least
5 give assurances, if you want to put a limit on the renewal
6 period, to give assurances that if they continued with an
7 income situation in the next two months, that they had in
8 the past four months, that we would renew the -- and
9 everything you put in about having the letter of credit
10 established properly, and so forth, that we would then
11 extend the license until August the 2nd.

12 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
13 I agree, although I'm not sure that I clearly understood and
14 I don't want to even debate it any longer, that the last
15 four months were profitable. We haven't seen the numbers to
16 know that.

17 On the other hand, I would agree with your
18 sentiment, that I believe that we all are desirable of
19 keeping you in business and, hopefully, that you'll be able
20 to provide to us information and a plan that will allow us
21 to extend this license through August 2nd, and see harness
22 racing continue, you know, as long as possible.

23 So if that's okay with everybody, I would like a
24 second to that motion.

25 COMMISSIONER AMERMAN: Second it.

1 COMMISSION CHAIRPERSON SHAPIRO: There's a second.

2 Is there any other discussion?

3 COMMISSIONER MORETTI: I have a comment.

4 COMMISSION CHAIRPERSON SHAPIRO: Yes, go ahead,
5 please.

6 COMMISSIONER MORETTI: Mr. Feinberg, it seems to
7 me that -- I certainly would concur with my colleagues, I do
8 not want to see harness racing leave California.

9 But it would seem to me that you're really
10 concerned about a sense of comfort for the horsemen, but if
11 you put this plan into place and you got a statement that
12 people could see, that that would provide a much more real
13 sense of comfort that come August you're not going to close
14 up, or come July you're not going to close up, or whenever.
15 So I would concur going with the --

16 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Can I
17 just amend it to be until March -- when's our Board meeting?

18 ASSISTANT EXECUTIVE DIRECTOR SMITH: The 27th,
19 March 27th.

20 COMMISSION CHAIRPERSON SHAPIRO: Maybe we ought to
21 go through the end of March, more time. If that's okay, I'd
22 like to amend my motion to be through the end of March.

23 COMMISSIONER HARRIS: Well, but then we'd have to
24 take action on March 27th, if we're going to go past that.

25 COMMISSION CHAIRPERSON SHAPIRO: Correct. Okay,

1 so if that's acceptable, we'll change the motion.

2 Mr. Axelrod?

3 MR. AXELROD: I was just saying that you also want
4 some interim financial results.

5 COMMISSION CHAIRPERSON SHAPIRO: Absolutely.

6 MR. AXELROD: But we wouldn't be able to give you
7 March, because we'll still be in March, so it will just be
8 for January and February.

9 COMMISSION CHAIRPERSON SHAPIRO: No, I understand,
10 but you can do January and February. Okay, thank you.

11 COMMISSIONER HARRIS: I'm a little concerned on
12 the payments to horsemen that actually have earned purses,
13 that are being held by the paymaster, that funds don't
14 really exist if there's a run on the bank and everyone wants
15 to get their money, if this may be in violation of any
16 racing rules. Any racing rule, or law, or whatever that
17 requires segregation of funds, that we may -- now that we're
18 aware of it, it's a little bothersome that maybe we should
19 be doing something about it.

20 DEPUTY ATTORNEY GENERAL KNIGHT: Well, this is an
21 issue that -- the segregation of funds is not so clear.
22 However, one of your rules does -- 1470 does require that
23 "every association shall maintain, in an approved
24 depository, those amounts deducted from the pari-mutuel
25 handle, which are retained by the association for

1 distribution for purposes specified in the law, rules, and
2 agreements, including, but not limited to purses, breeder's
3 awards, and unclaimed pari-mutuel distribution."

4 So there is an issue here about if the funds are
5 not there. The issue, we had looked into the issue of
6 segregation, but I was unaware that apparently the funds are
7 not there to satisfy some of these, and the Rule 1470 does
8 require it.

9 COMMISSIONER HARRIS: I think they think after
10 they're there, if they get this credit from overpayments,
11 how far back it --

12 DEPUTY ATTORNEY GENERAL KNIGHT: I understand,
13 yeah.

14 COMMISSIONER HARRIS: You know, if it's a clean
15 break in certain years or what.

16 DEPUTY ATTORNEY GENERAL KNIGHT: There might be an
17 interpretation issue, but that's what the language in the
18 rule is.

19 MR. FEINBERG: All our obligations have been
20 satisfied and the half a dozen checks that Commissioner or
21 Chairman Shapiro referred to were covered the second time
22 they went through. It was a timing issue in receiving funds
23 from one entity into our purse account during the holidays.

24 COMMISSION CHAIRPERSON SHAPIRO: But please
25 understand that what we are also requiring is that you

1 adhere to Rule 1470(a), which I believe is what DAG Derry
2 Knight just referred to, okay, as part of this.

3 Okay, if there's no other comments then, Dave, you
4 have a comment?

5 MR. ELLIOTT: Yes, thank you Chairman Shapiro.
6 Dave Elliott, Cal Expo.

7 I'm a little confused on the motion right now, but
8 I just wanted to go on record again by if we are contacted
9 by Sacramento Harness, that there is a reach out from them,
10 to us, regarding some type of operating agreement, or
11 they're not -- there may be a problem with the California
12 Horse Racing Board or whatever, I just wanted the Board to
13 have the assurance that we, Cal Expo, will step in, after a
14 request from California Harness Association, to support the
15 harness industry until August 2nd, number one.

16 Number two, I absolutely am sensitive to your
17 concerns. We're real sensitive, also. I mean, we --
18 there's a lot of rent money at stake and I'm absolutely
19 sensitive.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, look,
21 you're going to get a million eight under the current
22 formula, from them, in terms of your rent, on an annual
23 basis.

24 MR. ELLIOTT: Under the current formula, yes, sir.

25 COMMISSION CHAIRPERSON SHAPIRO: Correct, okay, on

1 the revised current formula.

2 Now, you have a pretty big stake in what happens,
3 I understand that.

4 MR. ELLIOTT: Yes, sir.

5 COMMISSION CHAIRPERSON SHAPIRO: I think what
6 you've heard from us is we have some real serious concerns
7 about the ongoing viability of SHA, by no fault of them,
8 because I think they've tried, they've done a damn good job
9 trying and they're good people. Okay.

10 You guys are sitting there saying, hey, we're
11 doing our best. So it would make sense to me, I don't think
12 we can tell you who to talk to, but I'd go outside and talk
13 to them and maybe come back here pretty quick, next month,
14 with a whole new plan that keeps you guys licensed through
15 August 2nd. See, it's that obvious.

16 COMMISSIONER HARRIS: Yeah, a nice plan would
17 something when you deferred any rent payments until August
18 2nd, that would really help.

19 (Laughter.)

20 COMMISSION CHAIRPERSON SHAPIRO: I'll let you --

21 COMMISSIONER HARRIS: Far be it for us to
22 micromanage.

23 MR. ELLIOTT: Does that mean I get like free
24 steaks?

25 COMMISSION CHAIRPERSON SHAPIRO: You'll get as

1 many as I get, okay.

2 Okay, thank you, Mr. Elliott. But, again, I think
3 there's a message here.

4 COMMISSIONER HARRIS: That's a good way to do it,
5 though.

6 COMMISSION CHAIRPERSON SHAPIRO: Yeah, we'll send
7 some steaks.

8 Okay, Mr. Jamgotchian, do you have a comment?

9 MR. JAMGOTCHIAN: Yes.

10 COMMISSION CHAIRPERSON SHAPIRO: Of course you do.

11 MR. JAMGOTCHIAN: Mr. Shapiro, in addition to
12 1470, Derry Knight failed to disclose to you 1470(c), which
13 gives the Board, at its direction, the obligation to require
14 periodic audits. So you have the opportunity to get audits
15 if, in fact, you require it.

16 The other thing is, another section that was
17 ignored was 1434, under licensing. I think that SHA has
18 proven, beyond a shadow of a doubt, that they failed to
19 provide the Board with evidence of its ability to meet the
20 estimated financial obligations for the conduct of a horse
21 racing meet.

22 You know, I don't see how you guys can grant them
23 a license knowing that they can't afford the rent, they
24 don't have any reserves, they have no idea how they're going
25 to survive, they have no business plan, they don't have a

1 budget, and they don't have audited statements.

2 Now, a question in this regard, is a letter of
3 credit already up? Because these guys are racing. Is a
4 letter of credit up, can somebody answer that question? Is
5 it up, does anybody know?

6 COMMISSIONER HARRIS: I don't think so.

7 MR. JAMGOTCHIAN: So you're allowing them to race
8 without a letter of credit, is that what you're saying?
9 Because this is just a yes or a no.

10 COMMISSION CHAIRPERSON SHAPIRO: Now, Mr.
11 Jamgotchian, this is a comment period, please make comments.

12 MR. JAMGOTCHIAN: No, no, I'm asking a question.
13 If you don't want to respond, Mr. Shapiro, that's fine.

14 COMMISSION CHAIRPERSON SHAPIRO: Okay.

15 MR. JAMGOTCHIAN: But I just want to know if the
16 letter of credit is up? They're racing, they don't have any
17 money, if the letter of credit's not up, they have less
18 money than you believe they even have. Can anybody tell me
19 if they have a letter of credit up? Nobody wants to tell me
20 they have a letter of credit up because they don't have a
21 letter of credit up.

22 So why don't they have a letter of credit up?

23 COMMISSIONER CHOPER: No, I think the answer is
24 that the letter of credit was not any condition of anything
25 before, that they were given a partial conditional license

1 for a limited period. They're now asking for an extension
2 of that. In connection with the extension, they -- if we
3 pass this motion, it's on condition that they get this
4 letter of credit properly done up.

5 So I think the difficulties that you're stating,
6 of course, are there. What we're looking for are solutions
7 and I think we've got what we can under the circumstances,
8 which aren't terribly favorable.

9 MR. JAMGOTCHIAN: And I think the letter of
10 credit. Yeah, I mean, everybody wants to retain harness
11 racing, but you need the letter of credit up to protect
12 people.

13 COMMISSIONER HARRIS: Well, I think we agree with
14 that, but the problem was we didn't want to shut it down
15 immediately and we gave them a few more weeks to try to
16 figure it out.

17 COMMISSIONER CHOPER: Exactly.

18 MR. JAMGOTCHIAN: Well, if Allred's willing to put
19 the letter of credit up, all he has to do is put it up
20 earlier, right?

21 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian,
22 Dr. Allred is willing to post a letter of credit moving
23 forward. He's being very gracious about that. They do have
24 a certificate of deposit on file with the Board. We are
25 doing everything we can to keep harness racing viable. I

1 would hope that the discussion we've had here today fully
2 reflects our intention and desire to see harness racing
3 remain viable in the State of California.

4 MR. JAMGOTCHIAN: Okay. But under 1434, I don't
5 believe they made a finding that they have the ability to
6 meet their financial obligations. And as a Board, as a
7 State Board, it's important that you review the laws you're
8 supposed to uphold. If they don't have the financial
9 capabilities, they shouldn't get a license.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay, Mr.
11 Jamgotchian, we have been discussing that all morning.

12 MR. JAMGOTCHIAN: Right.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, that's been
14 the reason that we've had this discussion. They have
15 presented us with budgets and a plan where they are showing
16 and demonstrating that they believe they have that. This
17 discussion has been to assure us and make sure that we're
18 doing what we believe is prudent and in the best interests
19 of all of the people that depend on harness racing.

20 Therefore, we are trying to take a very careful
21 approach, not harming harness racing, but also be prudent to
22 protect the people. We're doing the best that we can. I
23 thank them. I thank the Cal Expo, who has been very
24 forthcoming in saying that they want to stand behind them
25 and keep harness racing alive.

1 We're doing all we can. I'm sure that our legal
2 advisers will advise us appropriately with respect to the
3 law. Thank you very much.

4 MR. JAMGOTCHIAN: No, I just urge you -- excuse
5 me. I just urge you to get the bond up as quick as
6 possible, that's all I'm saying.

7 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
8 appreciate it.

9 Okay, with that I'm going to take a five-minute
10 break. I will tell you that this, in my opinion, was the
11 longest item on the agenda. I think that the rest of them
12 are going to go a lot faster. So why don't we take a --

13 MR. AXELROD: You haven't voted, yet.

14 COMMISSION CHAIRPERSON SHAPIRO: Whoa, whoa, okay.
15 Thank you. Therefore, there's a motion and there's a
16 second.

17 COMMISSIONER HARRIS: Could we repeat the motion?

18 COMMISSION CHAIRPERSON SHAPIRO: Oh, please.

19 COMMISSIONER AMERMAN: No, no, we got the -- we
20 get the point.

21 COMMISSION CHAIRPERSON SHAPIRO: Do you really
22 want to repeat it?

23 COMMISSIONER HARRIS: No, basically, what are we
24 doing?

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, here's what

1 we're doing. We are amending the license such that it will
2 run through March 30th.

3 COMMISSIONER CHOPER: There's a meeting on the
4 27th, that may have something to do with it.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, hold on,
6 hold on. The existing license will be extended through
7 March 30th, 2008. As a requirement, they will provide to
8 us, by March 1st, 2008, an audited financial statement.
9 They will also provide security to the Board in a form that
10 is satisfactory to the Board, to cover any potential debt,
11 at no less than half a million dollars. That is the motion.

12 COMMISSIONER HARRIS: So if that -- if they breach
13 that agreement on March 1st, it's over.

14 COMMISSION CHAIRPERSON SHAPIRO: That's correct.

15 DEPUTY ATTORNEY GENERAL KNIGHT: Can I --

16 COMMISSION CHAIRPERSON SHAPIRO: Go ahead.

17 Can we just have it quiet out there for a second,
18 please?

19 DEPUTY ATTORNEY GENERAL KNIGHT: Just so there's
20 no confusion, the earlier motion you also had some business
21 about an updated budget, including steps taken, and also the
22 income streams for January and February.

23 COMMISSION CHAIRPERSON SHAPIRO: Thank you. They
24 will also provide to the Board a business plan, they will
25 provide projections, they will provide results for the

1 period of January and February, as well as they will also
2 provide, for 2007, the preceding four months, which you
3 already have the results for, so that we can see those, and
4 we will see how the business plan -- to refer back to it.

5 Okay, that's the motion. It's been moved, it's
6 been seconded. All in favor?

7 (Ayes.)

8 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Now,
9 would you please make sure that you tell all the horsemen
10 that this Board is in favor of seeing harness racing
11 continue, no one should go anywhere. Okay?

12 MR. FEINBERG: We will. Thank you.

13 COMMISSION CHAIRPERSON SHAPIRO: Thank you. We
14 will now take a five-minute break and then we'll reconvene.

15 (Off the record.)

16 COMMISSION CHAIRPERSON SHAPIRO: Can we just send
17 somebody over to see if we can get some heat on in here?
18 Sorry that it's so cold.

19 Okay, we're just missing a couple Commissioners.
20 If Commissioner Harris will come up to the front?

21 All right, and Jackie, is somebody calling to see
22 if they can get some heat going in here?

23 STAFF SERVICES MANAGER WAGNER: Yes.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. You know,
25 one of the things we should do is, is there a website where

1 people could actually let us know that they're watching,
2 where they could just say they're watching? We need to get
3 some read on how many people are using the web. I mean, we
4 told --

5 COMMISSIONER AMERMAN: Is that not readily
6 available?

7 COMMISSION CHAIRPERSON SHAPIRO: I don't know.

8 COMMISSIONER HARRIS: I think that our webmaster
9 can probably show us how many visitors there are.

10 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well, we
11 ought to get that information, I'm hoping people are
12 availing themselves of it.

13 Okay, we'll call the meeting back to order, and
14 we're going to go on to Item Number 6, which discussion and
15 action by the Board regarding the proposed addition of CHRB
16 Rule 1843.3, penalties for medication violations, and the
17 proposed amendment to CHRB Rule 1843.2, classification of
18 drug substances.

19 This is the rule that seems never to end. Jackie,
20 go on and let's try to get through this.

21 STAFF SERVICES MANAGER WAGNER: Let's try to get
22 through. Jackie Wagner, CHRB staff.

23 As you know, the Board adopted the proposed
24 amendment to Rule 1843.2 and the proposed addition of
25 1843.3. Subsequent to the adoption, the rules were

1 submitted to the Office of Administrative Law for review.

2 On December 4th, staff was informed that the OAL
3 had disapproved the proposed rule making. They cited
4 several concerns with the proposal, including problems with
5 consistency and clarity, among others.

6 In response to that we, of course, digested the
7 disapproval opinion. We did meet with the OAL attorney, who
8 reviewed the file. And staff subsequently has made
9 amendments to the proposal in order to address the concerns
10 expressed by the Office of Administrative Law.

11 The texts that are in your package represent the
12 changes that were discussed with the Office of
13 Administrative Law in terms of rectifying or addressing
14 their concerns. Rather than go through all of these, I
15 would just highlight some of the concerns that they
16 expressed, including page 1 of both texts.

17 They expressed concern with the omission of the
18 original text of the administrative law judge, that was an
19 inconsistency that was in the law pursuant to AB 1616, that
20 now allows the administrative -- deletes the administrative
21 law judge from the adjudication of initial penalties for
22 violations of class ones, twos, and threes. We've made
23 changes to address that.

24 In addition, one of the large concerns had to do
25 with the phrase "mitigating circumstances," and the terms of

1 "forfeiture of the purse," in conjunction with the
2 disqualification of a horse. We have addressed that by
3 revising some of the language in the proposals.

4 And there are other changes that were made, but
5 rather than going through every single one, I would just
6 propose that you would instruct staff to go ahead and re-
7 notice this for 15 days. They have given us the approval to
8 do a 15-day notice to address their concerns, upon which
9 this will come back to you for adoption, again, and then
10 will go back to them for review.

11 We are on a time table to get this back to you in
12 February, at our regular Board meeting, in order to have it
13 adopted and continuing the process.

14 COMMISSION CHAIRPERSON SHAPIRO: Thank you,
15 Jackie. I think we're all very well aware, these are the
16 rules for the medication guidelines and violations. We've
17 tried to get these approved.

18 I'm pleased that our staff has met with the
19 attorneys from OAL. And, hopefully, we have now satisfied
20 all of their concerns and, therefore, I think what we're
21 just wanting to do is approve this and have this put back
22 out for another 15-day comment, as it's rewritten and
23 clarified.

24 COMMISSIONER HARRIS: Yeah, I think it's a better
25 document now, and I do OAL did improve what we had. And

1 I'll move that we put it out for a 15-day notice.

2 COMMISSION CHAIRPERSON SHAPIRO: All right, so a
3 second?

4 COMMISSIONER ANDREINI: Second.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay, is there
6 any --

7 DEPUTY ATTORNEY GENERAL KNIGHT: Comment.

8 COMMISSION CHAIRPERSON SHAPIRO: Yeah, go ahead.

9 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah, I'm sorry,
10 we just wanted -- I talked to Jackie, we have some minor
11 wordsmithing that we wanted to do with this before it goes
12 out, but it will be done like tomorrow.

13 COMMISSION CHAIRPERSON SHAPIRO: Okay, that would
14 be great.

15 Okay, if there's no other comment from the Board,
16 I'll take comment from the audience. First up, Marsha
17 Naify.

18 MS. NAIFY: Thank you, Marsha Naify, TOC. For the
19 most part, we're in agreement on the majority of changes,
20 but there are a few minor things that we had questions on or
21 items that need changes.

22 So going in a sequential order -- yeah, Drew's
23 going to talk about the first item.

24 COMMISSION CHAIRPERSON SHAPIRO: Okay. Well,
25 okay. Drew, why don't you then introduce yourself for the

1 record?

2 MR. COUTO: Sure. My name is Drew Couto,
3 President of Thoroughbred Owners of California.

4 COMMISSION CHAIRPERSON SHAPIRO: Okay.

5 MR. COUTO: There are two issues that appear to be
6 a bit inconsistent with the recently passed law, and I'm
7 referring to Section 19517.5, which states that with regard
8 to class one, two, and three violations, a hearing before
9 either the Board of Stewards, or a hearing officer at the
10 election of the respondent. That is the course to which
11 those hearings go, they go to either the Board of Stewards
12 or a hearing officer.

13 What Section 1843.2 and 1843.3 suggest is that in
14 addition to the Board of Stewards and hearing officer, it
15 carries over the language as far as an administrative law
16 judge.

17 And the section that previously authorized
18 administrative law judges to hear these matters has been
19 repealed and replaced with the new Section 19517.5. So
20 there's nothing authorizing an administrative law judge
21 anymore, as far as I'm aware, under the current law.

22 The inconsistency appears to be in existing
23 statute, which wasn't modified. I believe the existing
24 statute is -- the existing statute, forgive me for not
25 recalling it off the top of my head, is 19582, in particular

1 subsection (a) (4), which relates and refers to
2 administrative law judges.

3 So now we have a bit of an inconsistency between
4 the statutes controlling these types of hearings.

5 The regulations before, I think they're finalized,
6 have to do with the current inconsistency between the
7 statutes.

8 COMMISSION CHAIRPERSON SHAPIRO: Derry, do you
9 want to respond to that?

10 DEPUTY ATTORNEY GENERAL KNIGHT: Yeah. Well, I
11 was going to comment generally on -- there will still be the
12 potential for ALJ in these on appeal from the Board of
13 Stewards here. So I think we need to include the ALJ as one
14 of the possible bodies, if you will, that will be subject to
15 these rules.

16 So if, for example, a trainer elects to go the
17 Board of Stewards first, the appeal to the Board is heard by
18 an ALJ. So -- an administrative law judge, I'm sorry.

19 MR. COUTO: Which statutory mechanism do they use
20 to do that?

21 DEPUTY ATTORNEY GENERAL KNIGHT: 19517.

22 MR. COUTO: 19517.

23 DEPUTY ATTORNEY GENERAL KNIGHT: That's the appeal
24 to the Board.

25 MR. COUTO: Well, I thought 19517 --

1 DEPUTY ATTORNEY GENERAL KNIGHT: 517.5 deals with
2 the one, two and three.

3 MR. COUTO: Okay.

4 DEPUTY ATTORNEY GENERAL KNIGHT: And it's a
5 general APA because if there's an appeal, then it would come
6 to -- it would go to both -- if it comes to the Board, the
7 Board utilizes the Office of Administrative Law Judges, are
8 required to. And so the Office of Administrative Law
9 administrative law judges would hear the matter, prepare a
10 proposed decision, either affirming the Board of Steward's
11 ruling, or modifying, or whatever. That would then come to
12 the Board.

13 So the bottom line is there will be an ALJ
14 involvement if --

15 MR. COUTO: Only to the extent there's an appeal.

16 DEPUTY ATTORNEY GENERAL KNIGHT: That's correct.

17 MR. COUTO: Okay, this statute, this regulation,
18 though, doesn't specify that. As I read the proposed
19 regulation, it indicates that the administrative law -- just
20 reading 1843.2, the first sentence says, "the Board, the
21 Board of Stewards, the hearing officer, or the
22 administrative law judge when adjudicating a hearing," and I
23 don't believe an appeal would be an adjudication. I may be
24 wrong about that, but it seems to me to be an inconsistency.

25 Because, again, if we go back to the recently

1 passed 19517.5, those class ones, twos, and threes can only
2 be heard by the Board of Stewards or a hearing officer, at
3 the election of the respondent.

4 COMMISSION CHAIRPERSON SHAPIRO: Could you put a
5 parenthetical statement that says "in the case of appeals
6 only," after administrative law judge?

7 MR. COUTO: I think, I'm not sure what the best
8 wording would be, but I think what we're trying to raise
9 here is there's an inconsistency, at least with the recently
10 passed statute, and the current regulation, that we might
11 have to tighten up to protect the process and the new
12 regulation.

13 COMMISSION CHAIRPERSON SHAPIRO: I totally agree
14 with you and I think it's appropriate. The question is,
15 what I suggest is that we revise this to provide for that,
16 that we will tighten up the language. Derry would the same
17 as the other.

18 COMMISSIONER HARRIS: Yeah. I think it would be
19 good, too, if in some situations, if we prefer, we, being
20 the Board, would have the option to refer it to an
21 administrative law judge, rather than the board of stewards.
22 I'm not sure if that's possible or not.

23 MR. COUTO: Well, currently, the statute doesn't,
24 I think, give the Board the authority to make that. I
25 specifies that it will have to go either to the Board of

1 Stewards or a hearing officer.

2 DEPUTY ATTORNEY GENERAL KNIGHT: On class ones,
3 twos, and threes you have no discretion, you have no
4 involvement, it's solely at the discretion of the licensee,
5 the way the bill was passed.

6 MR. COUTO: Correct. Now, with regard to other
7 violations there would be flexibility and an administrative
8 law judge could hear those.

9 COMMISSIONER HARRIS: Yeah, I was thinking of
10 other things.

11 COMMISSION CHAIRPERSON SHAPIRO: All right, do you
12 have another comment?

13 MR. COUTO: Well, okay, that's true. Just to let
14 you know that that same inconsistency also applies to the
15 other proposed regulation, that's 1843.3. In particular,
16 the inconsistency is derived by subsection (f), which,
17 again, indicates at least with regard to class one, category
18 A penalties, that an administrative law judge would be
19 involved in it, and I don't think that's any longer the
20 case.

21 COMMISSION CHAIRPERSON SHAPIRO: Okay, so we'll
22 note that that needs to be addressed, as well.

23 MS. NAIFY: Okay.

24 COMMISSION CHAIRPERSON SHAPIRO: Is there anything
25 else?

1 MS. NAIFY: Yes, page 628 -- 6-28, Guy's going to
2 talk about that point.

3 COMMISSION CHAIRPERSON SHAPIRO: I'm sorry, I
4 don't -- say that again, I don't understand?

5 MS. NAIFY: Going in order on page 28?

6 COMMISSION CHAIRPERSON SHAPIRO: Yes.

7 COMMISSIONER HARRIS: 6-28.

8 MR. COUTO: 6-28. Exhibit 6, page 28.

9 COMMISSION CHAIRPERSON SHAPIRO: Okay, go ahead.

10 MR. LAMOTHE: Guy Lamothe, Thoroughbred Owners of
11 California. On 1843.3(a), I believe the subsections,
12 they're referred to subsections (e) and (f), which is
13 further in the rule, should be modified to subsections (d)
14 and (e), because just to be consistent with the changes.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, we'll check
16 to make sure that those were proper references. Okay.

17 MR. LAMOTHE: On page 6-30, at the bottom there,
18 what was struck, section (d), can you confirm or -- what's
19 the intention there for striking that? Is that an issue of
20 redundancy because this section is already in a statute, or
21 can you tell us why, in your discussions with OAL, it was
22 stricken.

23 COMMISSION CHAIRPERSON SHAPIRO: Jackie, do you
24 want to --

25 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,

1 CHRB staff, that's exactly why it was stricken.

2 MR. LAMOTHE: Okay, thank you.

3 STAFF SERVICES MANAGER WAGNER: It was only on the
4 advice of the OAL attorney.

5 COMMISSION CHAIRPERSON SHAPIRO: Okay.

6 MS. NAIFY: Okay, on page 31.

7 COMMISSION CHAIRPERSON SHAPIRO: 6-31, okay.

8 MS. NAIFY: It talks about the second lifetime
9 event for a licensed trainer. And minimum two-year
10 suspension, absent mitigating circumstances, the presence of
11 aggravating factors could be used to impose a maximum of
12 three-year suspension. Going down, and minimum fine of
13 20,000. The presence of aggregating factors could be used
14 to impose a maximum fine of 100,000 or 50 percent of the
15 purse, the greater of the two.

16 And I understand that the change in the second and
17 third lifetime offense for trainer was triggered by the law
18 change that now fines can go up to 100,000.

19 But in the second offense, why wouldn't it be just
20 50, because you would want to go incrementally from first
21 offense at 25, second offense at 50, the third offense at
22 100,000?

23 COMMISSION CHAIRPERSON SHAPIRO: I understand your
24 point is that while the law may authorize it up to 100,000,
25 it doesn't require it.

1 MS. NAIFY: Exactly.

2 COMMISSION CHAIRPERSON SHAPIRO: And, therefore,
3 why doesn't the second offense remain at 50,000 and the
4 third can go to 100,000.

5 Jackie, do you have an answer for why that change
6 is being proposed?

7 STAFF SERVICES MANAGER WAGNER: Let me double
8 check.

9 COMMISSIONER HARRIS: That's just a maximum, it
10 can be less. But, I think we just -- ideally, just to be
11 have a latitude that you could go that high if you have
12 aggravating factors.

13 STAFF SERVICES MANAGER WAGNER: Well, the maximum
14 fine in the law was increased to \$100,000, that's why we
15 changed those fifties to 100,000.

16 COMMISSION CHAIRPERSON SHAPIRO: Right. We
17 understand that the law now is a hundred. Marsha's point
18 is, yeah, but what we did was we were doing 25,000, 50,000,
19 100,000, why in the second step -- are we being required, is
20 somebody suggesting -- is OAL suggesting that that be
21 100,000?

22 STAFF SERVICES MANAGER WAGNER: They were
23 suggesting it in terms of making it applicable to the new
24 statute. However, we are correct in that, it does not have
25 to be. As I'm reading this right now, it does not have to

1 \$100,000, as long as it increases sequentially.

2 COMMISSION CHAIRPERSON SHAPIRO: Okay, so let me
3 just ask the question another way. We want to get these
4 approved.

5 STAFF SERVICES MANAGER WAGNER: Correct.

6 COMMISSION CHAIRPERSON SHAPIRO: Okay, so they --

7 MS. NAIFY: I think that they --

8 COMMISSION CHAIRPERSON SHAPIRO: Just let me
9 finish.

10 MS. NAIFY: Yeah.

11 COMMISSION CHAIRPERSON SHAPIRO: They don't need
12 to be -- the penalty that's meted out does not need to be
13 \$100,000, it's just the maximum. Given that, and the
14 comments from OAL, are we better off -- can we go back to
15 50,000 and it won't cause a problem or further delay, or are
16 we better off putting it at 100,000, but knowing that the
17 likelihood of on the second offense it being 100,000 is
18 pretty nil.

19 COMMISSIONER HARRIS: Well, I think the hundred is
20 good, anyway, if there's aggravating factors in it, there's
21 really no reason to make it 50 versus a hundred, if it's
22 reasonable people.

23 STAFF SERVICES MANAGER WAGNER: Correct, because
24 the assumption is also if we wanted to have the fine at
25 50,000, you can. The maximum is just \$100,000, that does

1 not mean that it has to be.

2 COMMISSION CHAIRPERSON SHAPIRO: We understand
3 that. We understand.

4 MS. NAIFY: Well, using that logic, it would be a
5 hundred --

6 COMMISSION CHAIRPERSON SHAPIRO: Is this something
7 that you feel strongly about?

8 MS. NAIFY: Well, I think it was probably just an
9 error, I think they say the 50,000 and knowing the law
10 change, put in a hundred. I mean, if you were going to use
11 that philosophy, then you'd put in a hundred for the first
12 offense.

13 COMMISSION CHAIRPERSON SHAPIRO: I don't disagree
14 with you.

15 MS. NAIFY: Right.

16 COMMISSION CHAIRPERSON SHAPIRO: The question is
17 we need to stop -- we need to get these approved once and
18 for all.

19 MS. NAIFY: I understand, but we're making
20 changes. So whether you make one change or ten, it's really
21 not going to matter.

22 COMMISSION CHAIRPERSON SHAPIRO: Well, I don't
23 know about that.

24 MS. NAIFY: But I think here it makes sense that
25 it goes incrementally, that it's 25,000 for the first

1 offense, 50,000 for the second, 100,000 for the third. That
2 would be our --

3 COMMISSIONER HARRIS: Well, if we're going to go
4 incrementally, it would be nice if it was 500,000 for the
5 third, but a hundred is the most that's in the law. So
6 doesn't make a hundred is fair, that's just a maximum.

7 But I think we need to have things in the toolbox,
8 if you've got a really terrible case out there, to --

9 COMMISSION CHAIRPERSON SHAPIRO: You know what,
10 let's just leave it at a hundred. We're not saying that's
11 the penalty it's going to be. Let's just leave it.

12 And what's the next point, please?

13 MS. NAIFY: You know, I understand what you're
14 saying, Chairman Shapiro, and I just want to point out that
15 they also changed the -- you notice that they changed, in
16 the second lifetime offense, from a three- to a two-year
17 suspension, because the first offense is one year, the
18 second offense is now two years, and the third offense is
19 now three years, because they chose to go --

20 COMMISSIONER CHOPER: It is true, there would be a
21 certain setting premium making it 50, making it graduated
22 from each offense, that is true.

23 MS. NAIFY: So they chose to go incrementally
24 there.

25 COMMISSIONER CHOPER: If you wanted to, but it's

1 whatever you wanted, I don't think one way or another.

2 MR. LAMOTHE: Let me add that there is a statute
3 that says that each subsequent offense, the penalty must be
4 greater than the other.

5 COMMISSION CHAIRPERSON SHAPIRO: Again, this is
6 talking about a maximum, okay. It doesn't mean that the
7 maximum is going to be --

8 COMMISSIONER HARRIS: And these are class A
9 violations, this is not singing in church.

10 MR. COUTO: You know, I recognize the logic that
11 the Board is advancing, that they are maximums, but these
12 are also guidelines. And one thing I would suggest you do
13 is when you look at this, and you look at the category A
14 escalating to provisions, and then you look at category B,
15 now you have the graduated penalties that were intended with
16 the original draft. And you look at category B, licensed
17 trainer, you see again, you know, a 60-day, a 120-day, a
18 180-day suspension, a fine of 5,000, 10,000, 15,000.
19 They're all graduated and escalating, and I would ask this
20 Board to consider, for the sake of consistency, and the
21 message that you're sending here, and the fact that they are
22 guidelines, rather than run the risk of somebody not
23 understanding the 100,000 is really reserved for a third
24 penalty, you set the guideline properly now.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.

1 I'll suggest that let's graduate it. Again --

2 COMMISSIONER HARRIS: No, I don't --

3 COMMISSIONER MORETTI: I just wanted to say the
4 maximum of 50, what if you --

5 COMMISSIONER HARRIS: No, I think we need the
6 latitude to make it a hundred. It doesn't have to be a
7 hundred. But, I mean, these are class A violations, with
8 aggravating circumstances. You probably can rule the guy
9 off for life and --

10 COMMISSIONER AMERMAN: Can you go to -- you can't.
11 You can't go over 100,000.

12 COMMISSIONER HARRIS: No, you can't go above a
13 hundred. I think you need to go over a hundred.

14 ASSISTANT EXECUTIVE DIRECTOR SMITH: Fifty percent
15 of the purse, if that's greater.

16 COMMISSIONER AMERMAN: What's that?

17 ASSISTANT EXECUTIVE DIRECTOR SMITH: If 50 percent
18 of the purse is greater than 100,000, you go higher.

19 COMMISSION CHAIRPERSON SHAPIRO: Right.

20 EQUINE MEDICAL DIRECTOR ARTHUR: Dr. Arthur,
21 Equine Medical Director. These are really pretty petty
22 issues, and I realize we enjoyed the last item so much, we'd
23 like to keep this one going.

24 It really doesn't matter much on this because we
25 don't have multiple class A violations, in the first place.

1 Secondly, the second part of that maximum fine, the purse,
2 it actually goes up to 50 percent of this purse or this
3 number, that's graduation.

4 Personally, if it's going to make the TOC happy,
5 let's make it \$50,000 and move on, because it's not worth
6 the argument we've already spent on it.

7 COMMISSIONER AMERMAN: I agree.

8 COMMISSIONER CHOPER: Second.

9 COMMISSION CHAIRPERSON SHAPIRO: John, I think
10 you -- John Harris, I think you're out-voted on this one.
11 Let's just make the change, I think we're all just trying to
12 get these rules in place.

13 COMMISSIONER HARRIS: Well, it just -- I don't
14 know, it just seems like we need latitude.

15 COMMISSION CHAIRPERSON SHAPIRO: Take one for the
16 team.

17 COMMISSIONER HARRIS: Well, okay.

18 COMMISSION CHAIRPERSON SHAPIRO: Take one for the
19 team here.

20 COMMISSIONER HARRIS: Well, they won't be happy,
21 anyway.

22 COMMISSION CHAIRPERSON SHAPIRO: All right, go
23 ahead, what's the next issue?

24 MS. NAIFY: On page 33, and this is just a
25 typographical error. But under the licensed trainer, going

1 down to the first offense, where the TC02 is supposed to be
2 above the level of 39, it says 9.0, instead of 39.0.

3 COMMISSION CHAIRPERSON SHAPIRO: Oh, thank you,
4 that's a good catch. Marsha, you get an A. Good one.

5 COMMISSIONER AMERMAN: Good, good.

6 MS. NAIFY: All right.

7 EQUINE MEDICAL DIRECTOR ARTHUR: Mr. Chairman, can
8 I interrupt here? You know, the job of the OAL is to pick
9 these items up. These are trivial items. If the TOC wants
10 to provide that to staff, we can make these changes, if they
11 have typographical errors. If they are substantive issues
12 that they want to discuss before the Board, we can take care
13 of that. OAL's job is to ensure these consistencies between
14 the law and these regulations, and whatever advice or
15 recommendations, or problems that TOC, or anyone else has
16 with these regulations, that basically are formatting or
17 typographical errors, staff can take care of that without
18 taking Board time.

19 COMMISSION CHAIRPERSON SHAPIRO: Well, okay. But,
20 again, I mean, that's a good catch, so let's just get it
21 done.

22 MS. NAIFY: Exactly, we only have two items left.

23 COMMISSION CHAIRPERSON SHAPIRO: There's only a
24 couple more left, so let's just hear them and we want to
25 talk about it.

1 MS. NAIFY: On page 36, the first paragraph, where
2 it talks about a written warning --

3 COMMISSION CHAIRPERSON SHAPIRO: What paragraph
4 number?

5 MS. NAIFY: The first paragraph.

6 MR. COUTO: E.

7 COMMISSION CHAIRPERSON SHAPIRO: E.

8 MS. NAIFY: Where it talks about a written warning
9 for a category D penalty. The first sentence says, "a
10 category D penalty may result in a written warning to the
11 licensed trainer or owner." And in the second sentence it
12 says, "a category D penalty is a written warning to the
13 licensed trainer or owner."

14 So I'm not really clear, do they get an automatic
15 written warning for a category D penalty?

16 STAFF SERVICES MANAGER WAGNER: The answer is yes,
17 they do, they automatically get a written warning.

18 COMMISSION CHAIRPERSON SHAPIRO: But, again, I
19 think it's a good comment, that it's not may, it's going to.

20 MR. COUTO: It should be "staff shall."

21 COMMISSION CHAIRPERSON SHAPIRO: Shall. Change
22 may to shall.

23 STAFF SERVICES MANAGER WAGNER: Change may to
24 shall, okay.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay.

1 MS. NAIFY: And finally, on page 37, the first
2 line, item J, which was struck, "any licensee found to be in
3 violation of State criminal statutes may be referred to the
4 appropriate law enforcement agency."

5 Now, I understand that this was struck because you
6 can't really find someone to be in violation of State
7 criminal statutes, that's not your job. But you could
8 suspect that they might be in violation of State criminal
9 statutes and thus refer them to the appropriate law
10 enforcement agency. And would that, perhaps, be a solution?

11 COMMISSIONER HARRIS: Which page is that?

12 COMMISSION CHAIRPERSON SHAPIRO: That is page 6-
13 37, at the top.

14 STAFF SERVICES MANAGER WAGNER: Right. OAL --
15 Jackie Wagner, CHRB staff. OAL recommended, at first blush,
16 that we go ahead and strike this precisely for the reason
17 that Marsha said, that the Board did not have the authority
18 to do that. However, as we spoke further, they did open the
19 door for language that does allow us to put "suspected" in
20 there. So we can change that to say any licensee suspected
21 to be in violation.

22 And if that is agreeable to the TOC, I have no
23 problems with amending the language to say that.

24 MS. NAIFY: Yes, it is, thank you very much.

25 COMMISSIONER HARRIS: I mean, as it is now,

1 there's nothing to prohibit us turning them in, anyway?

2 DEPUTY ATTORNEY GENERAL KNIGHT: No, absolutely
3 not.

4 COMMISSIONER HARRIS: So I don't know if it --

5 COMMISSION CHAIRPERSON SHAPIRO: So I don't know
6 if we need the language for it, if we have the ability to do
7 that. If it's suspected, I assume that --

8 COMMISSIONER HARRIS: I think that would be just
9 implied that you could do it.

10 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I don't
11 think the language does anything.

12 DEPUTY ATTORNEY GENERAL KNIGHT: I'm not sure, I
13 think I'd leave it out. You've got the authority.

14 COMMISSION CHAIRPERSON SHAPIRO: Yeah. And again,
15 these things have gone back and forth so many times let's
16 just -- we can do it. We should do it, so let's -- we can
17 do it with this, let's just leave it if we can.

18 COMMISSIONER HARRIS: Yeah. Because actually, by
19 doing that, it's a lot of the statutes are federal, as well.

20 COMMISSION CHAIRPERSON SHAPIRO: All right, are
21 there any other comments from TOC?

22 MS. NAIFY: No. Thank you very much.

23 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
24 much, appreciate them.

25 All right, that covered you. I don't think I have

1 any other comment cards. Oh, Jerry Jamgotchian.

2 MR. JAMGOTCHIAN: I have three things. The first
3 thing is these rules are somewhat irrelevant when the prior
4 administration of the CHRB would sign settlement agreements
5 with trainers and waive all the suspensions and the fines.

6 So you wouldn't need to worry about rules, if all
7 the violations were settled and there were no fines and
8 penalties given.

9 I'd just like to know if that's the position of
10 this Board, that they want the executive director, either
11 the acting executive director or future executive directors,
12 going to these trainers, who are clearly violating the
13 rules, making a settlement with them, and saying that -- the
14 trainer's saying, well, I'm not going to violate any more
15 rules, you accept that settlement and take him out of the
16 process, and derail all the rules that you guys are so
17 important -- so importantly talking about.

18 I mean, is the policy of the Board to do that
19 or -- and why is it being done? Because these trainers
20 aren't facing the rules, they're getting settlements.

21 COMMISSION CHAIRPERSON SHAPIRO: Mr. Jamgotchian?

22 MR. JAMGOTCHIAN: Yes.

23 COMMISSION CHAIRPERSON SHAPIRO: We are
24 considering the specific proposed additions and changes to
25 rules as cited in the agenda item.

1 MR. JAMGOTCHIAN: Right.

2 COMMISSION CHAIRPERSON SHAPIRO: That's what we're
3 doing here and --

4 MR. JAMGOTCHIAN: And those rules --

5 COMMISSION CHAIRPERSON SHAPIRO: May I finish?

6 MR. JAMGOTCHIAN: Sure.

7 COMMISSION CHAIRPERSON SHAPIRO: And we hope to
8 get these guidelines passed, and then we hope that we'll be
9 able to implement these guidelines. Thank you.

10 MR. JAMGOTCHIAN: Okay, so the settlement
11 agreements that have taken place recently, that's not going
12 to be the policy of the Board just to settle all these cases
13 and never get them to the judge, is that what you're telling
14 me?

15 COMMISSION CHAIRPERSON SHAPIRO: I'm not
16 addressing what the policy of the Board is. What we're
17 addressing here is modification of certain rules. And
18 you've seen them, and we've seen them many times now.
19 That's all we're addressing in this agenda.

20 MR. JAMGOTCHIAN: All I'm saying is if that's the
21 case, let the rules do the job and don't settle with the
22 trainers that violate the rules, number one.

23 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.

24 MR. JAMGOTCHIAN: And number two -- number two,
25 the rules that are going to be in place, there's no

1 obligations that the trainer signs anything acknowledging to
2 race by these rules, is there?

3 I mean, a trainer comes into the State of
4 California, whether he's an existing trainer, or a trainer
5 from out of the state, how does he know --

6 COMMISSIONER CHOPER: No, but I don't think that
7 makes any difference.

8 COMMISSION CHAIRPERSON SHAPIRO: Your time is
9 almost up.

10 MR. JAMGOTCHIAN: Yeah, but you've interrupted me
11 for the last minute, Mr. Shapiro, so if you wanted to be
12 quiet and let some of the other members --

13 COMMISSIONER CHOPER: No, but you see, I don't
14 think that makes any difference. If you speed in Nevada,
15 they're going to get you even if you're a California
16 resident and never signed any -- that you read the rules.

17 MR. JAMGOTCHIAN: That's true, but most of these
18 trainers -- most of these trainers don't know the rules. So
19 if they are handed the rules, at least they have knowledge
20 of the rules. They don't know the rules. In fact, the
21 California trainers don't know these rules, either. Because
22 there's never been, to my knowledge, a meeting that the
23 trainers have gotten together. Factions of the trainers
24 have gotten together, but the trainers don't know the rules.
25 And these rules are very significant.

1 But once again, if the policy is to follow the
2 rules, then the rules need to be enforced.

3 Thirdly, my last point, is that if stuff's going
4 to be sent down to the Board of Stewards to be heard, if in
5 fact a steward is on that board that has a family member, or
6 a clear conflict of interest, I think this Board needs to
7 consider that. Because the appointment of Ms. Fermin as a
8 steward, the upcoming appointment, if she's sitting on a
9 Board of Stewards, is she going to make decisions about
10 members of her family, that's my question?

11 COMMISSION CHAIRPERSON SHAPIRO: Okay, your time
12 is up, thank you. Thank you, Mr. Jamgotchian.

13 MR. JAMGOTCHIAN: Thank you.

14 COMMISSION CHAIRPERSON SHAPIRO: All right, we're
15 going to -- we need to take a vote on this.

16 DEPUTY ATTORNEY GENERAL KNIGHT: Can I just make
17 one other comment, Mr. Chairman?

18 COMMISSION CHAIRPERSON SHAPIRO: Yes, please.

19 DEPUTY ATTORNEY GENERAL KNIGHT: There's one other
20 change that we've talked about, as long as we're talking
21 about some tweaking of this, the discussion we had today was
22 we want to make some -- there's going to be a sentence added
23 that will clarify that these penalty provisions will not
24 override current law having to do with purse forfeiture,
25 which is automatic, and we have case law that supports that,

1 it's mandatory. And we just want to eliminate any
2 possibility of someone arguing that these somehow have
3 weakened that issue.

4 And we're just going to add a sentence that just
5 says that, and I just want to alert you to that.

6 COMMISSIONER HARRIS: Good.

7 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right.
8 That being the case, I'd like to call the question. Is
9 there a motion to approve, and put out for 15-day comment,
10 the rules as modified?

11 COMMISSIONER AMERMAN: So moved.

12 COMMISSION CHAIRPERSON SHAPIRO: Moved. Second?

13 COMMISSIONER MORETTI: Second.

14 COMMISSION CHAIRPERSON SHAPIRO: Second. All in
15 favor?

16 (Ayes.)

17 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

18 Item Number 7, discussion and action by the Board
19 regarding the feasibility of amending CHRB Rule 1606,
20 coupling of horses to allow an owner, with partial interest
21 in two horses, with different partners, to run uncoupled in
22 thoroughbred races, if they are trained by different
23 trainers.

24 And I think it's very important that we understand
25 what we're talking about here. So horse A is owned by

1 Moretti, Harris, and Choper and trained by Bob Trainer. And
2 horse B is owned by Harris, Shapiro, and Smith, and is
3 trained by Joe Jones. Those horses, in the past would have
4 been coupled, and now will be able to be uncoupled. Is that
5 correct?

6 COMMISSIONER HARRIS: That's the intent. I mean,
7 you could go further and make it you didn't have to have
8 different trainers. But I was the one that came up with
9 this suggestion, and I thought by putting the trainers in,
10 it just gave it even more nonalignment.

11 COMMISSION CHAIRPERSON SHAPIRO: Okay. All right,
12 so does anybody want to offer any comment on that from the
13 Board?

14 COMMISSIONER MOSS: What about if you have single
15 owners, a single owner, two different horses, has two
16 different trainers, do they have to be coupled?

17 COMMISSIONER HARRIS: Yeah, I think they would
18 have to be coupled, although we do have a provision for
19 stakes races that, by permission of the CHRB, can uncouple
20 them.

21 But we tried, at one point, to uncouple these on
22 limited entries, basically, and it would just happen. And
23 the quarter horse rules do that. But it was voted down.

24 There's so many partnerships around, now, it's
25 even a bigger problem, where two different partnerships

1 aren't really tied together at all, but they've got to run a
2 coupled entry.

3 But I think what we do, what I wanted to do is put
4 this up because I think it would increase wagering interest.
5 But this only would go out for comment and we'll probably
6 get a lot of comment on it.

7 COMMISSION CHAIRPERSON SHAPIRO: Correct.

8 Correct. Okay, does that answer your question?

9 COMMISSIONER MOSS: Answers my question.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Is
11 there any other comment from the Board?

12 If not, what I would do, and I'm going to have
13 public comment, is entertain a motion to put this out for
14 public comment.

15 COMMISSIONER HARRIS: So moved.

16 COMMISSIONER ANDREINI: Second.

17 COMMISSION CHAIRPERSON SHAPIRO: Moved and
18 seconded, okay.

19 STAFF SERVICES MANAGER WAGNER: Jackie Wagner,
20 CHRB staff. What we'll have to do, then, is go ahead and
21 develop language to implement this idea and we'll go ahead
22 and put that out to notice.

23 COMMISSION CHAIRPERSON SHAPIRO: Right.

24 STAFF SERVICES MANAGER WAGNER: Okay.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay.

1 MR. COUTO: Chairman Shapiro? Drew Couto,
2 Thoroughbred Owners. Can I ask what you're putting out for
3 public comment?

4 COMMISSION CHAIRPERSON SHAPIRO: What we are
5 putting out would be a revision to Rule 1606, that would
6 allow for horses that have -- that are owned by multiple
7 parties, which may not mirror each other, and are trained by
8 different trainers, would not need to be coupled for
9 wagering purposes.

10 MR. COUTO: Is that stated anywhere here, or
11 just --

12 COMMISSIONER HARRIS: Well, we haven't got the
13 language written, yet.

14 COMMISSION CHAIRPERSON SHAPIRO: No, the language
15 will be written, at which point it will be put out.

16 COMMISSIONER HARRIS: It can be whatever we want
17 it to be.

18 MR. COUTO: Okay.

19 COMMISSIONER HARRIS: But I mean the question
20 would be that I think we need to hear the public comment and
21 see what people want. But I think that's one way to do it,
22 which would probably be the least controversial, but there's
23 all kinds of variations within that.

24 MR. COUTO: It was just unclear to us what,
25 exactly, was being put out for public comment.

1 COMMISSIONER HARRIS: I think it's the one where
2 you've got two partnerships, which do not mirror each other,
3 trained by two different trainers. So if you had a
4 partnership that is exactly Harris and Shapiro have a horse
5 with Carla Gaines and Marty Jones, those would be coupled.
6 But if it's Harris, Smith, and Shapiro, with one trainer,
7 and Shapiro, Harris, and Moretti with another trainer, they
8 wouldn't have to be.

9 DEPUTY ATTORNEY GENERAL KNIGHT: Can I just make a
10 suggestion, and you may not mirror this, but doing it this
11 way you really complicate the -- well, I don't want to --

12 COMMISSION CHAIRPERSON SHAPIRO: That's all right,
13 you can say it.

14 DEPUTY ATTORNEY GENERAL KNIGHT: You create a huge
15 burden for dealing with this when you don't really have a
16 proposal out there, and your comment is going to come from
17 all directions and you're going to have to deal with it.

18 COMMISSIONER HARRIS: Yeah.

19 DEPUTY ATTORNEY GENERAL KNIGHT: I mean, a
20 suggestion would be that either this go to a committee, or
21 somehow it be further developed a little bit before you go
22 out into the public with it.

23 COMMISSIONER HARRIS: Well, I think we would write
24 the comment, that's the whole purpose of the public comment.
25 I think it's pretty clear what we want. And we still really

1 aren't adopting it, it goes out and if some things come
2 back, we can always modify it.

3 COMMISSION CHAIRPERSON SHAPIRO: Yeah, I mean, I
4 think we're clear on what we're trying to do.

5 DEPUTY ATTORNEY GENERAL KNIGHT: Okay.

6 COMMISSION CHAIRPERSON SHAPIRO: I think it can be
7 easily written. There will be sufficient time for comment.
8 And what we're trying to do is move it along.

9 COMMISSIONER MORETTI: John, is it your intent
10 that there will be percentages of ownership in there?

11 COMMISSIONER HARRIS: No, it's a matter of as long
12 as they were not -- I mean, the whole thing is a mirror
13 image. So long as it's not a mirror image and there are two
14 different trainers, they wouldn't have to be coupled.

15 COMMISSIONER CHOPER: That's the idea, but we may
16 get amendments to the effect that if it's 95 percent, or you
17 know, you can always --

18 COMMISSION CHAIRPERSON SHAPIRO: And it kind of
19 goes back to what was on the Licensing Committee, where
20 you've got these partnerships, you know, and they're not --
21 they may have different partners in them. And it's kind of
22 unfortunate that they get coupled, I think is the notion.

23 So Jack Liebau? Jack has a comment card.

24 MR. LIEBAU: Jack Liebau, from Bay Meadows and
25 Hollywood Park. I have to admit that what Mr. Harris said

1 is true, that this probably is not very controversial
2 because it won't be very helpful. And I just don't think
3 that you're going to get an expansion of entries because of
4 this rule.

5 I would also hope that in writing the rule, they
6 will make sure that it does not -- is not an exclusive rule
7 that would take away the power to couple horses in graded
8 races, which is now subject to the approval, I think, of the
9 Executive Director.

10 I would say that we, at Hollywood Park and Bay
11 Meadows, did operate during a time when entries could be
12 of -- having the same ownership could be uncoupled. I have
13 to say that I thought that that experiment was a success, as
14 a matter of fact, and I -- people -- I know that Chairman
15 Shapiro was concerned about it, but we did it for a number
16 of meets and there was no criticism, whatsoever.

17 It certainly is of importance in Northern
18 California, as far as improving the size of fields is
19 concerned. So from my own perspective, I mean, I'm for a
20 much more latitude as far as uncoupling entries are
21 concerned. And I think I have empirical evidence that it
22 worked. And I'm sorry that that experiment did not result
23 in the rule being perpetuated.

24 COMMISSION CHAIRPERSON SHAPIRO: Well, doesn't
25 this, in fact, give you the window of opportunity, in the

1 comment period, to come back and suggest that it be
2 broadened, if that's what you think?

3 MR. LIEBAU: No. Thank you very much.

4 COMMISSIONER HARRIS: I mean, I would probably be
5 for uncoupling, as we originally tried in the trial, and it
6 came back and TOC and CTT opposed it. And this is kind of
7 step that's not really the ultimate uncoupling but is, I
8 think, better than what we have.

9 MR. COUTO: Mr. Harris, you might -- again, Drew
10 Couto, Thoroughbred Owners of California. You might be
11 happy to learn that I think the TOC Board, at this point,
12 would support the uncoupling of entries with common
13 ownership.

14 COMMISSIONER HARRIS: Well, would completely, with
15 the same trainers or anything? But no a pure uncoupling,
16 only if there's different --

17 MR. COUTO: I think we've -- at least I think the
18 board is prepared to look seriously at an uncoupling,
19 regardless of the trainers.

20 COMMISSION CHAIRPERSON SHAPIRO: Well, then let me
21 back up and should we rather not act on this and, in fact,
22 kick it over to the Pari-mutuel Committee, and have them
23 look at it one more time, with TOC, and everybody, and see
24 if you want to come back as a -- look at Commissioner Moss
25 smiling. He is like the cat that got the canary.

1 COMMISSIONER MOSS: We already did this. We did
2 this, and suggested it, and it was an experiment, and
3 according to Mr. Liebau, it was successful. According to
4 the TOC, they would like to have it proceed along those same
5 lines.

6 So to bring it back to us I don't think makes a
7 whole lot of sense.

8 COMMISSIONER HARRIS: Well, but if the TOC's
9 changed their position, because that was the reason we
10 didn't -- we had the experiment, we brought it back, and I
11 was for doing it. TOC and CTT said they were worried about
12 integrity issues, didn't think we should do it, so we didn't
13 do it. But now --

14 MR. COUTO: I believe also the Fans Committee was
15 opposed to it at that time, too.

16 COMMISSIONER HARRIS: Yeah. But now for born
17 again uncouplings, let's take a look at it.

18 COMMISSION CHAIRPERSON SHAPIRO: And that's my
19 point, maybe what we should do is not move forward with
20 this, but ask staff to bring back and put back on the agenda
21 the same thing we had, put that out again for comment, if we
22 need to do it anyway, and then we can all weigh back in and
23 say, okay, we have data that Mr. Liebau and others might
24 have, and we can hear from everybody and revisit that issue.
25 Why don't we just do that, instead?

1 COMMISSIONER CHOPER: And I take it we've looked
2 at the rule across the country, and other jurisdictions as
3 well?

4 COMMISSION CHAIRPERSON SHAPIRO: Well, they're not
5 all uniform.

6 COMMISSIONER CHOPER: Well, I think that would at
7 least be helpful for our consideration.

8 COMMISSION CHAIRPERSON SHAPIRO: Correct. I don't
9 think you were on the Board when we dealt with this.

10 COMMISSIONER CHOPER: I wasn't, no.

11 COMMISSION CHAIRPERSON SHAPIRO: Right.

12 COMMISSIONER HARRIS: And we should take a look,
13 too, at the quarter horse situation and see if that's
14 working.

15 COMMISSIONER ANDREINI: Well, it works. It does,
16 it definitely works.

17 COMMISSION CHAIRPERSON SHAPIRO: So perhaps what
18 we should do is not move forward with what we are talking
19 about, but instruct staff to please bring back the
20 consideration of amending Rule 1606, as we did previously.

21 COMMISSIONER CHOPER: As an experiment.

22 COMMISSION CHAIRPERSON SHAPIRO: On an
23 experimental basis, but to see if the Board wants to
24 reconsider adopting it on a more permanent basis, and do
25 that.

1 MR. LIEBAU: Mr. Shapiro, could I just inform the
2 Board that when we did that at Bay Meadows, we picked up 18
3 horses, as far as entries or races were increased -- field
4 size was increased in 18 races, and the wagering on those
5 races, on a comparative basis to other races where there
6 were smaller fields, was up by 20 some odd percent. So it
7 makes a huge difference.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
9 Ron, I think it's Ron Charles. Is that you that wrote this
10 card that's illegible? Obviously, you weren't here for the
11 beginning, when I said please write your name legibly, so I
12 don't screw it up.

13 MR. CHARLES: That's the best I can do. Ron
14 Charles, MEC.

15 COMMISSION CHAIRPERSON SHAPIRO: We've learned
16 that before.

17 MR. CHARLES: Thank you. Just trying to go back a
18 little bit with regard, Commissioner Moss, we spent an awful
19 lot of time doing a number of Pari-Mutuel meetings. I would
20 just hesitate on the Board going all the way back to
21 directly where we were. The compromise that Commissioner
22 Harris had thrown out, with a different trainer, maybe you
23 could run both, simultaneously, and ask the question out.

24 Because clearly, the Fans Committee, and racing
25 fans who weren't on the committee showed up in numbers, very

1 strongly opposed to this. And I think it's something we
2 need to take a look at, and I don't see why we couldn't look
3 at.

4 Because there is a potential possibility that the
5 racing fan would look at this much differently if the common
6 owner also had -- they did not have the same trainer. I
7 think it's something that might be more palatable.

8 I think right now we're running a lot of horses
9 that aren't coupled, that have common ownerships. We have
10 so many different partnerships, with some people owning two,
11 three, four percent that it just isn't being caught. So
12 technically, right now, we're running horses uncoupled.

13 COMMISSIONER HARRIS: Well, I don't know, maybe we
14 should put it out like with the different trainers and see
15 what we get, and in the meantime we can also do it again.
16 But that way, certainly, I think we've got a good consensus
17 for using different trainers, where the other part might be
18 a little grayer.

19 MR. CHARLES: I think that's -- and Commissioner
20 Moss will tell you, we -- you know, there was tremendous
21 opposition with the same trainer, with the same owner. I
22 think with a different trainer, with not a common ownership,
23 I think it's something that everyone can take a look at and
24 they can voice their opinion, and we'd have a clearer
25 understanding as to whether that's acceptable. The other

1 one, at least at that time, wasn't.

2 MR. COUTO: Mr. Shapiro, would it be possible,
3 since I'm still, unfortunately, a bit confused of what it
4 means to go out for public comment, during this comment
5 process could we schedule a Pari-Mutuel Committee hearing --
6 or meeting, and go ahead and discuss the issue that Mr.
7 Charles has raised, and make certain that we're all in
8 agreement on what, exactly, the rule will look like.
9 Because you're not putting out, right now, a rule that's
10 going to go to OAL, but you're asking comment. And we
11 should have that hearing.

12 COMMISSION CHAIRPERSON SHAPIRO: I'm absolutely
13 fine with that and what I would suggest is that there be a
14 Pari-Mutuel Committee meeting, where all parties can voice
15 their opinions, and their views, and look at data, and try
16 and come up with what the Board should consider.

17 What I hear here is that we have a Board that's
18 willing to consider whatever is reasonable, and desired, and
19 also protects and maintains the integrity of the game.
20 We're looking to do what's best.

21 So I think the best thing that we could do is, in
22 fact, ask that the Pari-Mutuel Committee hear this, bring
23 back a recommendation to the Board, so that the Board can
24 act accordingly.

25 MR. CHARLES: Okay, I'll go for that, as long as

1 we don't have to hear Mr. Couto come back to 1, 1A, 1B, 1C,
2 and 1D on his special plan there.

3 COMMISSION CHAIRPERSON SHAPIRO: Okay. Then we'll
4 make that as a mandate, because I'm good at those.

5 MR. CHARLES: Appreciate it.

6 (Laughter.)

7 MR. COUTO: Chairman Shapiro, I promise I will
8 recognize Mr. Charles's limitations and not bring that
9 subject up.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

11 MR. CHARLES: And I appreciate that.

12 COMMISSION CHAIRPERSON SHAPIRO: Thank you. Okay,
13 Mr. Liebau, do you want another word?

14 MR. LIEBAU: Yeah. You know, the elephant that's
15 in the room, that kind of opens Pandora's Box, is it's
16 perfectly okay and nobody has any objections at all to the
17 trainer having three, four horses in a race, no problem.
18 But let me tell you, guys, I've owned horses and many of you
19 have owned horses, and if any of you think that you have
20 more control over what goes on in a race than the trainer
21 does, you're a hell of a lot smarter and have a hell of lot
22 better trainers than I do.

23 Because, I mean, that -- you now, if you're going
24 to -- and there has been no problem that I know of, no big
25 expose, or anything else because of this rule where we've

1 let these trainers do this, and it's working.

2 So, I mean, if it's okay for the trainers to do
3 it, I just don't understand why it's not okay for the
4 owners. And I think that everybody should keep that in
5 mind, and I realize that that's an elephant in the room, and
6 that I may be opening Pandora's Box but, you know, those are
7 the facts.

8 COMMISSION CHAIRPERSON SHAPIRO: Mr. Liebau, I
9 suggest you make all those comments in the Pari-Mutuel
10 Committee. We're just trying to do what we think is what
11 will benefit the industry.

12 Okay, Jerry Jamgotchian.

13 MR. JAMGOTCHIAN: Yeah.

14 COMMISSION CHAIRPERSON SHAPIRO: You don't have a
15 comment?

16 MR. JAMGOTCHIAN: No, I'm conflicted on this. So
17 I'm conflicted on this as an owner. Gee, I mean, the first
18 thing that goes to my mind is to say, okay, great, I'm going
19 to get a bunch of new partners, I can race my horses, three
20 or four horses in a race, and it could be a great thing.

21 But as a fan, this is wrong. I mean, you guys are
22 here to support the integrity of horse racing, and if you
23 allow owners to get horses in the races, to have a rabbit,
24 and this is wrong. I mean, I think Mr. Moss's committee was
25 clear, the fans spoke, it's about integrity. This is the

1 issue where the owners of race horses, like Mr. Harris, that
2 obviously he's got a position in this fight, and anybody
3 that owns race horses knows what they can do if they have
4 multiple horses on a field.

5 So the fans don't want to bet on horses that are
6 not giving their full effort. And only the trainers, I
7 agree with Liebau, the trainers know what horses are going
8 to give the best effort. And if somebody has a beneficial
9 advantage to bet on a horse, well, I think you're sending
10 the wrong message.

11 But once again, it's your message that you're
12 sending. Are you a fans friendly board, are you a track
13 friendly board, or are you an owner friendly board. I think
14 that if we don't have fans in this sport, we're in deep
15 trouble.

16 And I think the fans have spoken. If you, Mr.
17 Shapiro, and members of the Board, wish to ignore them, go
18 ahead. But I think it's wrong.

19 COMMISSIONER HARRIS: Well, I think a lot of the
20 fans do, would support the uncoupling, especially the way
21 I've proposed it, because oftentimes there would be
22 different owners or different -- let's say a fan picks a
23 horse, he wants to bet on that horse, but it's coupled with
24 another horse. So the horse he wanted to be on might be ten
25 to one. But due to the coupling, the horse is only two to

1 one, and he doesn't really get the price he would have on
2 the horse that he wanted.

3 And also, especially with Pick Sixes, and things
4 like that, if a horse is scratched, say it's a big favorite
5 in the race, and everyone's going to that in the Pick Six,
6 and it gets scratched, but then you've got that entry in
7 there with the 30 to 1 shot, but that's your ticket, the
8 fan's not too happy about that.

9 So there's -- I mean, there's plus and minus from
10 fans on this.

11 COMMISSIONER CHOPER: As a fan, let me say, it's a
12 complicated process.

13 COMMISSIONER HARRIS: Yeah.

14 COMMISSIONER CHOPER: As to which is better or
15 which is worse. But fans -- I mean, I know why fans don't
16 want -- you know, went against it, because it makes a
17 greater -- adds a complication to handicapping. And the
18 notion is, it's complicated enough already.

19 COMMISSIONER HARRIS: Well, I think it adds a
20 complication by having these.

21 COMMISSIONER CHOPER: Some. You're right, you
22 made some good points as to how it might remove some
23 complications, that's right.

24 COMMISSION CHAIRPERSON SHAPIRO: All right, we'll
25 move forward to Item Number 9, which is a report and update

1 from the Jockeys Guild regarding the use of the alternative
2 whip.

3 As you will recall, the Board allowed that there
4 was an alternative shorter whip, that we approved, and was
5 it at Del Mar that we did it? Okay, at Del Mar. And I'm
6 not sure what there is, other than maybe we can hear from
7 Darrell Haire that there's no problems with the whip. And
8 if that's the case, then everybody's happy.

9 MR. HAIRE: Chairman Shapiro, members of the
10 Board, Darrell Haire, Western Regional Manager of the
11 Jockeys Guild.

12 This whip has been, as you know, it has been used
13 since Del Mar by a few riders, and only because right now
14 they're not available. There's only one person in New
15 Jersey manufacturing these whips right now. And the
16 material is hard to come by. It is partly foam. And what's
17 happening is they're not real durable right now. And as you
18 see the end, it breaks down quite easily with sand and
19 water.

20 So at this time they're trying to come up with
21 some material, vinyl, or a different material with the foam
22 that holds up much better.

23 So Larry Fowler, in Kentucky, is looking into it.
24 There's another person in Pennsylvania, also. So it's just
25 something that's in the works right now.

1 Aaron Grider, Mike Smith are currently using these
2 whips and they really like them. I think it's because of
3 the popping noise. They are equine friendly.

4 So it's just a matter of time before they come up
5 with the right material.

6 COMMISSION CHAIRPERSON SHAPIRO: All right. Well,
7 thank you, Mr. Haire. And I know that I've talked to a few
8 jockeys that are using it and it seems to be kinder on the
9 horses. So appreciate the update, and I don't think there's
10 really much else for us to do, other than say we hope that
11 more jockeys get them.

12 All right. Okay, we're now going to move forward
13 to Item Number 11, which is report and update from Santa
14 Anita, regarding the drainage issue at Santa Anita
15 Racetrack.

16 And if Mr. Charles would come forward? I'd be
17 surprised if there is anybody in the world that isn't aware
18 of what's going on, what has gone on, and see that you
19 issued an announcement yesterday.

20 And I'd just like to remind everybody that this
21 agenda item is specific to Santa Anita. It's about what the
22 plans are at Santa Anita for this race meeting, and what
23 steps are being taken.

24 So Mr. Charles, if you could just fill us in for a
25 couple of minutes, that would be great.

1 MR. CHARLES: Sure. Ron Charles, MEC. We made
2 the announcement, yesterday, that we will be working with
3 Pro-Ride, a synthetic surface racing company, to -- working
4 with them to add basically their polymer fibers and
5 synthetic fibers to the racetrack, that we not only believe
6 will solve our drainage problem, we also believe it will
7 create a much safer and kinder racing surface.

8 We also believe that it's going to dramatically
9 lessen the amount of kick-back.

10 So that being said, we believe the tests that
11 we've shown over the weekend, and as we stated yesterday, we
12 brought in a number of trainers, a number of owners,
13 probably seven or eight jockeys. Everyone was tremendously
14 supportive of what they saw. It's incredibly encouraging.
15 A time frame on this is looking at probably around ten days
16 to be able to get the amount of material in, and then the
17 first available window after that, we're looking at about
18 four days to be able to apply that to the existing cushion
19 track, that would make it this much greatly improved
20 service.

21 COMMISSION CHAIRPERSON SHAPIRO: I have to admit,
22 and also I want to say thank you, that last weekend I was
23 invited and did see this track, the existing track, both
24 pre-treated with this, and as I understand it, it's a liquid
25 solution, primarily --

1 MR. CHARLES: That's correct.

2 COMMISSION CHAIRPERSON SHAPIRO: -- that's being
3 mixed into the track. And it's quite amazing to see what
4 this polymer binder, in fact, does. And I also did sit on a
5 few meetings last weekend with some very notable Hall of
6 Fame trainers, who saw this, and then spoke to a lot of
7 people, and I was very pleased that everybody was so
8 enthused.

9 And I have to say that I know that it's been an
10 extremely difficult situation for Santa Anita, for our fans,
11 for all the horsemen, but I know that you've uncovered every
12 possible stone there is to look at what to do here. And I'm
13 very hopeful that this will solve this. And appreciate all
14 the hard work that everybody put into it.

15 So does anybody have any other questions or
16 comments that they wish to add to this?

17 COMMISSIONER AMERMAN: Talking about uncovering
18 stones, how are you doing with the rocks?

19 MR. CHARLES: We basically have been able to find
20 someone who's run into this problem before, and so what
21 we're able to do is to, through a different maintenance
22 program, which began yesterday, align four track masters out
23 there, dig the soil up with the first heat, and then find
24 the rocks that might be available. There were considerably
25 less rocks today. We did that again, today. So we have

1 really intensified the looking of the rocks. And so --

2 COMMISSIONER AMERMAN: You think it will go away?

3 MR. CHARLES: We think it's going to greatly
4 diminish. And as we continue and work with Pro-Ride in
5 putting in the new surface, we think we're going to be able
6 to get the vast, vast majority of these out.

7 COMMISSIONER AMERMAN: What caused it in the first
8 place?

9 MR. CHARLES: What caused the rocks, and some of
10 them are -- some of them are rocks, some of them are pieces
11 of asphalt. And when we had to clear the cushion track off,
12 because the initial asphalt was sealed shut through the silt
13 and the wax, by peeling the asphalt back, we had to power
14 wash. Some of the power wash, that's a very fragile
15 asphalt, it broke up. We went back and patched over that
16 but, unfortunately, some of those pieces of asphalt and some
17 of the rock underneath actually worked their way above the
18 surface when we put the cushion track back on.

19 And those pieces of asphalt and rock have somehow,
20 and don't ask me how, have worked their way towards the
21 surface. So what we're doing is really stepping up. We
22 were doing it somewhat, almost in a prehistoric way, by just
23 sending out 15 to 20 guys around, day after day, after day.

24 We really believe the new way that we're going to
25 be doing it will be, you know, much greater and will greatly

1 enhance the removal of those rocks.

2 COMMISSIONER AMERMAN: And in discussion it with
3 trainers and jockeys, are they comfortable with what you're
4 doing?

5 MR. CHARLES: Yeah, they're happy that we're being
6 much more proactive, and I think that's what's most
7 important.

8 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you,
9 Mr. Charles.

10 I would like to remind everybody that prior to the
11 Board knowing what direction Santa Anita was going to go in,
12 and wanting to be proactive to provide for all
13 possibilities, the Board scheduled a special teleconference
14 meeting for tomorrow. It's no longer necessary and,
15 therefore, that meeting for tomorrow is canceled. So just
16 to be on record with that, that that meeting has been
17 canceled.

18 Thank you, Mr. Charles.

19 I have one public comment card from Cliff
20 Goodrich. I don't know if he meant to comment on this
21 issue.

22 MR. GOODRICH: Cliff Goodrich, from Fairplex.
23 Given the Chairman's suggestion, my comment is probably
24 better suited for Item Number 16, though Santa Anita is
25 really the catalyst for my comments, this agenda item is

1 limited to just Santa Anita. So if you could make the 11 a
2 16, I'd appreciate it.

3 COMMISSION CHAIRPERSON SHAPIRO: I'll make the 11
4 a 16. Thank you.

5 Okay, moving forward, Item Number 12, discussion
6 and action by the Board on the distribution of race days
7 charity proceeds from the Del Mar Thoroughbred Club, in the
8 amount of \$181,380 to 20 beneficiaries.

9 Hello.

10 MR. GONZALEZ: Francisco Gonzalez, CHRB staff.
11 Item Number 12, as you mentioned, is a request for a charity
12 distribution from Del Mar Thoroughbred Club. They're
13 requesting that the net proceeds of \$181,380 be distributed.
14 The staff noted that 82 percent of the proceeds will be
15 given to related -- racing related organizations. We
16 recommend approval of this item.

17 COMMISSION CHAIRPERSON SHAPIRO: Okay, thank you.
18 Is there any comment from the Board?

19 There being none, is there a motion to approve.

20 COMMISSIONER MORETTI: So moved.

21 COMMISSION CHAIRPERSON SHAPIRO: Second?

22 COMMISSIONER AMERMAN: Second.

23 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

24 (Ayes.)

25 COMMISSION CHAIRPERSON SHAPIRO: Thank you. The

1 next item is Item 13, discussion and action by the Board on
2 the distribution of race charity proceeds from the Hollywood
3 Park Racing Association, in the amount of \$180,000 to 21
4 beneficiaries.

5 MR. GONZALEZ: Yes. Hollywood Park Racing
6 Association are requesting that the proceeds of \$180,000 be
7 distributed. The staff noted that 59 percent of the
8 proceeds will be given to racing related organizations. We
9 recommend approval of this item.

10 COMMISSION CHAIRPERSON SHAPIRO: Is there any
11 comment from the Board?

12 COMMISSIONER HARRIS: Just to clarify, are we
13 still doing the racing days as charity days, or I thought
14 that was changed and there was some percentage of handle, or
15 something, going into the charity days.

16 MR. GONZALEZ: Right, that's a very good question.
17 I've been inquiring -- in the short time that I've been
18 here, I've been inquiring with the different organizations,
19 associations that have provided these requests, and it
20 varies.

21 COMMISSIONER HARRIS: It's an option, the track
22 can do whatever they want.

23 MR. GONZALEZ: Right, it's an option. Some of
24 them, they do try to average it out.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, is there a

1 motion?

2 COMMISSIONER MORETTI: So moved.

3 COMMISSION CHAIRPERSON SHAPIRO: So moved.

4 Second?

5 COMMISSIONER MOSS: Second.

6 COMMISSION CHAIRPERSON SHAPIRO: All in favor?

7 (Ayes.)

8 COMMISSION CHAIRPERSON SHAPIRO: Thank you very
9 much.

10 All right, Item 14 is discussion and action by the
11 Board to grant CHRB staff person(s) with the authority to
12 carry out and execute the duties of the CHRB Executive
13 Director, until a replacement Executive Director is
14 reappointed and assumes the Executive Director position.

15 This item is so that our acting -- that Bon Smith
16 can act as the acting Executive Director of the Board, and
17 whatever other authority we need to grant to other staff
18 persons, until an Executive Director has been hired.

19 COMMISSIONER CHOPER: So moved.

20 COMMISSION CHAIRPERSON SHAPIRO: It's moved.

21 COMMISSIONER HARRIS: Second.

22 COMMISSION CHAIRPERSON SHAPIRO: Is there a
23 second?

24 COMMISSIONER MORETTI: John just seconded it.

25 COMMISSION CHAIRPERSON SHAPIRO: Okay, all those

1 in favor?

2 (Ayes.)

3 COMMISSION CHAIRPERSON SHAPIRO: Thank you, it is
4 approved.

5 Item Number 15, we are not going to do. I should
6 have said that at the beginning, I'm sorry. We're not going
7 to have the staff reports on the concluded race meets until
8 the next Board meeting.

9 Item Number 16, public comment. I have one card
10 from Cliff Goodrich. Okay, I have two cards, now.

11 Mr. Goodrich?

12 MR. GOODRICH: Just an observation from all my
13 years. And I've read with interest, like everyone else, the
14 debacle at Santa Anita, and I know there's people in the
15 audience here today, both horsemen, interested parties,
16 media, and everybody seems to want to play Monday morning
17 quarterback.

18 And from our perspective, at Fairplex, this Board
19 has been charged consistently, by at least one individual,
20 as a lack of leadership, and the Board needs to show more
21 leadership.

22 I believe there were six open committee meetings
23 on the subject of synthetic tracks. I didn't recall one
24 person saying there was a rush to judgment. There are
25 certainly concerns, but there was consistent and unanimous

1 consent to move ahead.

2 So if anyone is going to get up here today, or
3 anybody's going to talk on the radio or write about it, I
4 have to ask them where they when we were going through this
5 process.

6 Craig Fravel probably wasn't the first to say it,
7 but several months ago he made a statement that I'll never
8 forget, in relation to dirt tracks, and we've seen it on the
9 Breeder's Cup on TV, with a microphone in somebody's face,
10 where somebody makes the comment, well, it's too bad that
11 horse lost his life, and perhaps a jockey was injured, or
12 worse, along with it, but that's just the nature of the
13 game.

14 Well, that wasn't acceptable then, it certainly
15 shouldn't be acceptable now. I think dirt tracks are a
16 thing of the past. Any new technology is going to have its
17 growing pains and, certainly engineered tracks have seen
18 that and will continue to see that.

19 But I don't think there can be any doubt of the
20 effort of the Chairman, this Board, and everybody in the
21 audience that they are trying to do what's in the best
22 interest of racing.

23 And for everybody -- not everybody -- some people
24 to take pot shots that we rushed to judgment, or did things
25 too early, or didn't study enough is just false.

1 So on behalf of Fairplex, we salute this Board and
2 everybody in the industry who supported this, and we've got
3 to have the courage and the staying power to see it through,
4 because we will look at this as a blip. Even though Santa
5 Anita, and others, I mean they traveled the world, at huge
6 expense, to do things right, this will be a blip in a moment
7 in time. The technology will improve and we will get
8 through this, we just need to stay with it.

9 So thank you.

10 COMMISSION CHAIRPERSON SHAPIRO: Thank you.

11 Jerry Jamgotchian.

12 MR. JAMGOTCHIAN: Just some miscellaneous items,
13 Mr. Chairman. I wanted to know -- I sent a letter to Mr.
14 Smith, an e-mail to Mr. Smith with regards to the San Diego
15 office. Has that office been closed, yet, or will it be
16 closed?

17 COMMISSION CHAIRPERSON SHAPIRO: This is a comment
18 period, please make your comments. It's not an exchange.

19 MR. JAMGOTCHIAN: Well, that's my question. Is
20 there --

21 COMMISSION CHAIRPERSON SHAPIRO: Just make your
22 comment, you've got your three minutes, go ahead.

23 MR. JAMGOTCHIAN: So you refuse to answer the
24 question? Okay, that's fine. Okay, so you refuse to answer
25 the question, that's my comment.

1 Additionally, Mr. Shapiro, at the last meeting you
2 stated, on page 9 of the transcript, "first of all, I think
3 Dr. Arthur would be thrilled if he was earning the 345,000
4 that he claimed to be earning. Unfortunately, I'm sorry,
5 Dr. Arthur, that your salary isn't that high."

6 Well, Mr. Shapiro, you know, your recent interview
7 on Roger Stein's show, with Lenny Shullman, where you
8 weren't forthcoming with some answers, you weren't telling
9 the truth in here, either.

10 There was a letter that was sent to me by Wendy
11 Voss, dated July 5th, that outlined Mr. Arthur's salary.
12 And there's also a letter from John Pasco, to you, dated
13 August 11th, 2006, where it states that, "I advised you that
14 the total annual budget to support the program for next year
15 would be \$345,000, which consists of a salary of \$200,000,
16 plus benefits totaling \$55,000, a research budget of
17 \$50,000, a travel budget of \$28,000, and operating expenses
18 of \$12,500."

19 Now, if you were being truthful, Mr. Shapiro,
20 which obviously you weren't, you would tell the people that
21 Dr. Arthur is being paid by Del Mar, Dolly Green Research
22 Foundation, Oak Tree Racing Association, the Los Alamitos
23 Racing Association, and the State, to the tune of \$147,000
24 from the CHRB.

25 So if you're truthful, Mr. Shapiro, you would

1 admit that Dr. Arthur's getting \$345,000. And,
2 interestingly enough, the people that are paying him are the
3 racetracks who he oversees.

4 Now, once again, it seems to me, clearly, there's
5 a conflict of interest in this hiring of Dr. Arthur.
6 Obviously, the people that are paying him clearly are
7 conflicted.

8 But for you not to tell the truth with regards to
9 how much Dr. Arthur's being paid, when Ms. Voss sent it to
10 me in an e-mail, you should be ashamed.

11 You should also be ashamed because you're not an
12 expert on polytrack, cushion track, Pro-Ride, or anything
13 else. You're told what people tell you. It's been wrong.
14 And, unfortunately, the horse racing owners, the employees,
15 all the people, the associations who you've pounded down a
16 multi-million dollar tab to, to replace their dirt tracks,
17 when they could have done other things, you've done nothing
18 but cost this industry millions of dollars. The owners
19 millions of dollars, as well as trainers and everybody else.

20 (Time beeper goes off.)

21 MR. JAMGOTCHIAN: My time is up -- and my time is
22 up and I accept that. But my final request is, in the best
23 interest of racing you're going to be -- you're going to be
24 up in July. If you would like to leave early, it would be
25 no problem.

1 COMMISSION CHAIRPERSON SHAPIRO: Mr.
2 Jamgotchian -- Mr. Jamgotchian, thank you for your comments,
3 appreciate it.

4 Richard Castro.

5 MR. CASTRO: This is general business? We're in
6 general business?

7 COMMISSION CHAIRPERSON SHAPIRO: Yes.

8 MR. CASTRO: My name is Richard Castro,
9 representing Pari-Mutuel Employees Guild. I thought on the
10 agenda today was going to be the ADW issue with us. It
11 wasn't on the agenda, and I would like to make a request
12 that it be on the February agenda.

13 We have narrowed, with Twinspires and XpressBet,
14 just a couple of issues, but we can't seem to resolve them.
15 I'm suggesting that we go before an arbitrator. I think one
16 of the companies would prefer that you hear it. I'm just
17 making you aware of that. But I would like at least to have
18 it on the agenda for February.

19 COMMISSION CHAIRPERSON SHAPIRO: Okay, Mr. Castro,
20 let me respond to that. You and I spoke yesterday, or the
21 day before. I understand that there is an impasse between
22 you and some of the ADW providers, with respect to the card
23 check and what categories of employees are included.

24 I have no problem with it going to arbitration. I
25 think that if the other ADW providers that have not agreed

1 to -- or you're at impasse with, we certainly would have no
2 objection doing it.

3 We will put it on our agenda for February. But in
4 the meantime, we certainly hope that you and the others can
5 get together and resolve this, so that we don't have to hear
6 it.

7 MR. CASTRO: Today, we're going to go to lunch
8 together and we're going to try to iron out some of these
9 things.

10 COMMISSION CHAIRPERSON SHAPIRO: And I know that I
11 heard -- I spoke to the one party, also, and they're
12 desirous of resolving it with you. So I hope we get there.
13 Thank you. Thank you.

14 Ed Halpern?

15 MR. HALPERN: Ed Halpern, California Thoroughbred
16 Trainers.

17 I just wanted to follow up on what Cliff said,
18 Cliff Goodrich said. He's a hundred percent right that
19 every organization in racing, with the possibility of the
20 absence of one, supported the installation of these tracks
21 and that this Board did not make the decision on its own.
22 And that if any of our organizations would have gotten up
23 and opposed the regulations which required these tracks,
24 this Board may have taken a different position. But we
25 didn't, we all supported them.

1 So those who like to fault this Board for its
2 action, should give second thought to who really supported
3 the installation of these tracks, including Santa Anita, who
4 stood up and supported the regulation requiring the
5 installation of the tracks.

6 I mention that one only because there was some
7 comment on a radio show, in which you were involved, Mr.
8 Shapiro, that tried to indicate that Santa Anita didn't.
9 And they actually got up and did support it.

10 Secondly, I would like to report to you that the
11 CTT has a board meeting yesterday, and at our board meeting
12 we discussed the synthetic surfaces, and what the situation
13 is with the synthetic surfaces.

14 And our board members, to a man, and woman, agreed
15 that they favor the synthetic surfaces, that they would not
16 want to go back to dirt surfaces. And they reported during
17 that discussion that in their conversations with other
18 trainers throughout California, who have experience with
19 these tracks and do, in fact, know something about how these
20 tracks affect the horses and affect the industry, they
21 reported yesterday and, again, unanimously they reported,
22 that with very rare exception the trainers they talked to
23 say they would rather have these tracks than the dirt
24 tracks, and that these tracks are better than the dirt
25 tracks, and they do not want to go back to dirt tracks.

1 Thank you.

2 COMMISSION CHAIRPERSON SHAPIRO: Thank you. I
3 would like -- go ahead, I'm sorry.

4 COMMISSIONER MOSS: I just feel moved to make a
5 statement about all that, you know. As much as the
6 intentions of this Board, and everybody connected with the
7 California racing industry, it seems, is intent on having
8 synthetic racetracks, we do need the technical support of
9 the manufacturers of these tracks. And we have to point out
10 that thus far we have not had such great support.

11 So in a certain way, the intentions are
12 unquestionable, and the intentions are excellent. But if we
13 don't get the support and we end up with bad racetracks,
14 this is going to hurt California.

15 And I think that we have to understand that we're
16 in a time of experiment here, and to have some understanding
17 of how long we're going to experiment with and for. The
18 experiment at Santa Anita, thus far, has not been a good
19 one. The experiment at Del Mar has been questionable. I'm
20 not hearing the greatest things about Golden Gate so far.

21 So I think it's one thing to have all these votes
22 of support and approval but, you know, even at Hollywood
23 Park, which is unquestionably the best racetrack we have
24 right now, you know, I had a horse that almost swallowed a
25 piece of rubber the other day while working out. And this

1 is the size of it right here, you can look at it. This was
2 Tiago.

3 And so the point is, we all can be supportive and
4 we all can be as feeling as good about ourselves as we
5 possibly can, but we're in a state of experiment. And I
6 think that we can't just continue to blindly experiment
7 without putting some limitation on this experiment, and be
8 open to perhaps thinking about that maybe the technology has
9 not, you know, helped us out on this, and give it some
10 consideration at some point in the future. That's all I
11 have to say, thank you.

12 COMMISSION CHAIRPERSON SHAPIRO: Okay. Dr.
13 Arthur, did you want to say something?

14 EQUINE MEDICAL DIRECTOR ARTHUR: Yeah, I would
15 like to say one thing. There is one fact that you can say
16 about the synthetic surfaces, and that is they have
17 decreased racing fatalities in California by about 60
18 percent on main tracks.

19 In the previous, if you go back to 2004, and look
20 at all the injuries, the racing fatalities that were on main
21 tracks, we were running at 3.1 fatalities per thousand
22 starts.

23 With the synthetic tracks, all told, and that's
24 13,000 starts now, we're running at 1.24.

25 So it certainly has been positive in terms of

1 racing fatalities. The training fatalities are equivocal at
2 this time.

3 But I agree with Mr. Moss, there are a lot of
4 issues that have to be sorted out, and they are problematic.
5 It is a novel technology, but it's very, very promising in
6 terms of long-term horse health and safety.

7 COMMISSION CHAIRPERSON SHAPIRO: You know, I very
8 much appreciate your comments, Commissioner Moss. And I
9 would like to say that I also appreciate the comments that
10 were made by Mr. Goodrich and Mr. Halpern.

11 I think that the Board has only had the best of
12 intentions to try and find every means possible to help this
13 industry. And in our zeal to do -- to help the industry, I
14 think that we have tried to do what we believe is best.
15 And, frankly, it is a learning curve. I think it was naive
16 for us, for anybody to have thought that we were not going
17 to have glitches.

18 I don't necessarily agree with some of the
19 conclusions that were made, I think there are adjustments to
20 be made. If you look at Del Mar, Del Mar had a much safer
21 experience last year.

22 Yeah, I think everybody hope to see the track is
23 faster, and it will be better. And, certainly, we're
24 finding that there has been a glitch at Santa Anita. But
25 what we've also found out of that is that we're learning.

1 And my guess is that the people at Del Mar, who
2 now will have more time, and have had more time, are going
3 to be able to apply other principles, and perhaps some
4 science, to where the track will be better.

5 Clearly, at Santa Anita, when you understand that
6 they brought in a professor and chair of the department of
7 civil and environmental engineering, and you see the studies
8 that took place in the lab, and you see people from as far
9 away as Australia to study this, I agree with you. I think
10 that some of the technical support that's been forthcoming
11 by some of the manufacturers has been very lacking.

12 But I think that we're learning. And I think that
13 we've seen, also, that maintenance is so critical and key to
14 these surfaces, that we're still in the learning curve.

15 I, personally, am not committed to any specific
16 surface, be it dirt or synthetic. I simply am looking for
17 the surface that will be best for our horses and for our
18 riders, and our industry.

19 And, you know, I know that some people think I'm
20 an all-synthetic guy. I'm not an all anything guy. What I
21 am is the guy that simply wants to see that the best
22 surfaces we can deploy are, in fact, deployed.

23 We know that what we have now are better bases to
24 our racetracks. We know that we have new technology that
25 we're using. And as an industry, it's something that's

1 encumbent upon us to do so that we can improve our business.

2 And clearly, no one can argue that we have not
3 seen an influx of horses and trainers that we've never seen
4 before.

5 So I think that, yeah, the jury is still out, and
6 it's going to take study, and it's something that is prudent
7 to be studied. I know that we --

8 DEPUTY ATTORNEY GENERAL KNIGHT: Mr. Shapiro, I'm
9 sorry.

10 COMMISSION CHAIRPERSON SHAPIRO: You're going to
11 stop me?

12 DEPUTY ATTORNEY GENERAL KNIGHT: Well, we
13 really -- if you want to have this kind of a discussion, you
14 really do need to agendaize it.

15 COMMISSION CHAIRPERSON SHAPIRO: Okay, so let's
16 stop and just say that I think that everybody -- nearly
17 everybody is well intentioned, and nearly all of the
18 comments that were forthcoming are appropriate.

19 And I think that over time we're going to see
20 studies that will come out.

21 Commissioner Harris and I participated in a
22 discussion, yesterday, with the Welfare and Safety Summit.
23 I know that there's some dialogue that's been going on with
24 Mr. Liebau, and others, to have a forum for study, to grow,
25 and help the industry.

1 Okay, there you go. I can stop.

2 All right, is there any other business to come up
3 under public comment?

4 There being none, this portion of the meeting is
5 going to be adjourned. We are going to go into Executive
6 Session. So thank the public. Thank you.

7 (Thereupon the California Horse Racing
8 Board Regular Meeting was adjourned at
9 1:20 p.m., and resolved into Executive
10 Session.)

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CERTIFICATE OF REPORTER

I, TROY A. RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Meeting of the California Horse Racing Board; that thereafter the recording was transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting, or in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of January, 2008.

Troy A. Ray

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